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Blackpool Council

Dear Councillor

LICENSING PANEL - FRIDAY, 26TH JUNE, 2020

Please find attached additional information for Friday, 26th June, 2020 meeting of the Licensing Panel, which were received after the agenda had been despatched.

Agenda No Item

4. **APPLICATION FOR A NEW BINGO PREMISES LICENCE - MERKUR SLOTS 40 ABINGDON STREET, BLACKPOOL, FY1 1DA (Pages 1 - 10)**

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Objections to a licence by Merkur Slots, 40 Abingdon Street, Blackpool, FY1 1DA (Cashino Gaming Limited).

Case Outline

Objectors

- The Bread Basket, 55 Abingdon Street,
- Abingdon Barbecue, 44 Abingdon Street, Blackpool.

Case Outline

1. This case outline deals with the representations on behalf of the above objectors to the application for a Premises Licence under the Gambling Act 2005 to permit bingo at the premises.
2. Attached to this case summary are the applicants recent staff adverts for new premises to 24/7 trading.

Location and Application Details

3. The applicant applies for a Bingo premises licence under the Gambling Act 2005 for 40 Abingdon Street, Blackpool, FY1 1DA. The location is a secondary part of the shopping centre which has suffered in recent times, compounded by closures during the COVID-19 outbreak. The location is also away from the night time economy areas of Blackpool. The objectors are concerned at the decline of this part of the centre which is exacerbated, amongst other things, by an over proliferation of gambling premises. Immediately next door to the application site is an Adult Gaming Centre. There are a further 2 adult gaming centres within 100 metres of the site, around the corner on Talbot Road and Church Street. There are a considerable number of betting shops also in the vicinity. As a retail area, the premises have suffered and the objectors are concerned about a rise in crime, disorder and general public disturbance in the area.
4. There are difficulties later in an evening as the area suffers from anti-social behaviour and congregation of those who commit anti-social behaviour. It is noted that the applicant wishes to open the premises 24/7, adverts for staff confirm that at quiet times there will be single manning. This is not suitable or appropriate for this location.
5. At a recent planning application for the change of use of the site (16 June) the councillors on the planning committee expressed reservations and were split 6:1 in favour of refusal to grant planning permission for change of use from a betting shop to an AGC use. It is therefore unlikely that the premises will be granted planning permission for use as an Adult Gaming Centre. It appears to be a tactic that the applicant has made an application for change of use to an AGC in planning terms, but has made an application for a Bingo premises licence.

6. The application is made for a Bingo premises licence so as to allow for 24/7 hour opening for slot machines, and automated bingo. Whilst Bingo will be provided at the premises, presumably electronically, this can only take place between the hours of 09:00 to 00:00. The machines are capable of being used 24/7. It appears to be a tactic that in relation to applying for planning permission for one use, whilst applying for a premises for a different use under the Gambling Act 2005. Having now seen the layout plan for the application, the applicant has devised “filler machines” between the main machines. Each of these has a 2 machine content for the purpose of totting up the numbers of machines. There appear to be 64 of these machines in the premises. This is important as the applicant would be allowed 20% of those as category B machines which would equate to 13 category B machines. Category B3 machines offer a £500 pay out, these machines are by far the most profitable.

Relevant Legislation

7. Section 153 Principles to be applied

(1) In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—

- (a) in accordance with any relevant code of practice under section 24,
- (b) in accordance with any relevant guidance issued by the Commission under section 25,
- (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
- (d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

(2) In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

8. ***Whilst it is accepted on behalf of the objectors that the legislation is permissive “aimed to permit” the licensing sub-committee still maintains a discretion as to whether to grant or refuse the licence. This is not a rubber stamping exercise and as a result of the objection, the licensing sub-committee’s discretion is engaged.***

The licensing objectives

9. In this Act a reference to the licensing objectives is a reference to the objectives of—
 - (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - (b) ensuring that gambling is conducted in a fair and open way, and
 - (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

Part 5: Principles to be Applied by Licensing Authorities

10. Objective 1 : Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

5.3 Among other matters, licensing authorities may need to consider the location of premises in the context of this licensing objective. For example, in considering an application for a premises licence or permit that is in an area noted for particular problems with disorder, organised criminal activity etc. the licensing authority should think about what, if any, controls might be appropriate to prevent those premises being associated with or used to support crime. That might include conditions on the premises licence, such as a requirement for door supervisors. The requirement for conditions might be determined by the operator's own risk assessment or the local area profile carried out by the licensing authority, as detailed in Part 6.

5.4 A licensing authority will need to consider questions raised by the location of gambling premises when:

- formulating its statement of licensing policy
- receiving relevant representations to an application
- dealing with applications as a responsible authority in its own right
- considering applications before it.

5.5 In the context of gambling premises licences, licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor.

5.6 Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences.

5.8 In relation to preventing disorder, licensing authorities have the ability under s.169 of the Act to attach additional conditions to premises licences, and are entitled to include a requirement for door supervision, as provided for in s.178 of the Act. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence. Further information on conditions on premises licences can be found in Part 9 of this Guidance.

11. Objective 3 : Protecting children and other vulnerable persons from being harmed or exploited by gambling

5.13 In exercising their powers under s.153, licensing authorities should consider whether staff will be able to adequately supervise the gambling premises, as adequate staffing levels is a factor to consider regarding the prevention of underage gambling.

5.17 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission does not seek to define 'vulnerable persons' but it does, for regulatory purposes, assume that this group includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.

5.18 Licensing authorities need to consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. This could be a local risk that is reflected in the licensing authority's statement of policy. Any such considerations need to be balanced against the authority's objective to aim to permit the use of premises for gambling.

12. Section 153 principles

5.20 Whilst there is a presumption in favour of permitting the relevant premises to be used for gambling, the licensing authority may not do so unless satisfied that such use would be in accordance with this Guidance, any relevant Commission code of practice, its own statement of policy, and the licensing objectives.

13. Local Risk Assessments

6.41 The Commission's Licence Conditions and Codes of Practice (LCCP) which were revised and published in February 2015, formalise the need for operators to consider local risks.

6.42 Social responsibility (SR) code 10.1.1 requires all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's statement of policy.

6.43 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- when applying for a variation of a premises licence
- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of policy
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.

14. Premises

7.4 By distinguishing between premises types, the Act makes it clear that the gambling activity of the premises should be linked to the premises described. Thus, in a bingo premises, the gambling activity should be bingo, with gaming machines as an ancillary offer on the premises.

15. Blackpool Council - Statement of Policy and Principles under the Gambling Act 2005 (2019-2022)

2. The licensing authority is determined that the residents of, and visitors to Blackpool should be provided with high quality well managed venues for betting and gaming, whilst reducing the risk of crime and disorder and protecting children and the vulnerable. For these reasons the licensing authority will expect detailed plans from operators to show how the objectives will be met.

“Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime”

The Gambling Commission takes a lead role in preventing gambling from being a source of crime by vetting applicants for personal and operator licences. The licensing authority will however look at the location of the proposed premises in terms of this licensing objective. Where an area is known for having high levels of crime or disorder the licensing authority will consider whether the premises are suitable to be located there and whether conditions such as the provision of door supervisors may be required.

There is a distinction between disorder and nuisance. Complaints about nuisance cannot be resolved through the Gambling Act 2005 however it may be possible to address problems of this nature through other types of legislation.

Factors such as whether police assistance was required and how threatening the behaviour was will be considered in determining whether the incident was disorder or nuisance.

“Ensuring that gambling is conducted in a fair and open way”

The licensing authority will not normally be concerned with ensuring that gambling is conducted in a fair and open way as this will ordinarily be addressed by the Gambling Commission through the granting of personal and operating licences.

“Protecting children and other vulnerable persons from being harmed or exploited by gambling”

This can mean preventing children from taking part in or being in close proximity to gambling.

There is no definition of the term “vulnerable person” but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment or to the use of alcohol and/or drugs.

Location – where the licensing authority is satisfied that there is sufficient evidence to demonstrate that the location of the premises would be harmful to the licensing objectives they will use this evidence to inform their decision on whether to grant the licence, grant the licence with conditions or refuse the licence.

Design – where access by children is permitted to all or part of the premises the design should be capable of demonstrating how access by children will be prevented.

Social responsibility – the protection of children and young persons from being harmed or exploited by gambling is of significant concern, the licensing authority would expect to see the list of measures that will be taken to protect children as well as the assistance that would be made available to those with gambling problems.

4.4 Conditions

Premises licences issued under the Gambling Act 2005 are subject to the mandatory and (unless excluded) default conditions made by the Secretary of State. They are also subject to the Licence Conditions and Codes of Practice issued by the Gambling Commission. Whilst the licensing authority can add additional conditions to a licence this power will only be used where there are clear reasons for doing so. Conditions will only be attached to licences if they are necessary and proportionate. Any condition imposed will be:

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of the premises; and
- Reasonable in all other respects

4.5 Door Supervisors

In some cases there may be a need for door supervisors in terms of protection of children or preventing the premises from becoming a source of crime. The authority will only impose a condition requiring the use of door supervisors if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

4.8 General standards for all gambling premises

High standards are expected from operators of gambling premises within the Borough to ensure the promotion of the licensing objectives.

The licensing authority will place a high priority on social responsibility. In exercising its statutory powers, the authority will have due regard, where relevant, to the need to:

- Prevent gambling related problems in individuals and groups at risk of gambling addiction;
- Promote informed and balanced attitudes, behaviours and policies towards gambling and gamblers by both individuals and by communities; and
- Protect vulnerable groups from gambling related harm.

The licensing authority will consider, in relation to any particular premises whether any special considerations apply to the protection of vulnerable persons. Such considerations need to be balanced by the authority's objective to aim to permit the use of premises for gambling.

Conclusions

16. The objectors invite the sub-committee to determine that they have been provided with insufficient information to satisfy them that the application is in accordance with the relevant Guidance issued by the Gambling Commission under Section 25 nor that it is reasonably consistent with the licensing objectives of:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
17. From the information provided by the applicant, it is clear that Merkur Slots is a machine led environment. It is not believed that bingo will be the primary activity. Its main function is to create as many category B3 machines as is possible.
18. Of major concern is the issue of single manning at the premises. This in conjunction with the premises opening potentially for 24 hours a day 7 days a week is of real concern. This is compounded by the fact that there are no conditions being offered in relation to the application. It is difficult for the authority to be able to assess whether the premises licence holder will be able to protect children and vulnerable persons from harm or being exploited by gambling from the information that has been provided. The objectors feel it would be impossible at periods of single manning for these protections to be offered.
19. The facilities for staff seem particularly sparse and again, there is no detail of how a single manned premises will allow the member of staff to be able to use toilet facilities, have a break or eat or drink.
20. It is difficult from the information that has been provided to see whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
21. The applicant seeks to rely on a generic Cashino operating style and specific localised issues are not satisfactorily dealt with. The risk assessments have not been properly adjusted to reflect local conditions, particularly with the amount of vulnerable/homeless people on the streets in this area of town.
22. From the information provided by the applicant, the objectors invite the licensing sub-committee to refuse the application.

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Leeds

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Team Member – Nights (Part Time/Permanent) – Blackpool

Merkur Slots is an exciting addition to our expanding portfolio of Adult Gaming Centre's across the country, and subject to planning permission, we intend to open a new venue in Blackpool.

About Us:

We are part of the Gauselmann Group, a family owned German company which trades in over 40 European countries and is regarded as the foremost provider of gaming machines in Europe.

In the UK we currently operate over 175 high street Adult Gaming Centre's under our Cashino Brand, as well as having 6 bingo clubs, including Europe's largest bingo hall.

About the role:

Being a Team Member is about attitude, and having the right one is key. This is a customer facing position and some of the main responsibilities include: providing excellent customer service; ensuring company operating standards are adhered to; cash handling, and acting as a responsible ambassador for the venue.

The role will report to the Lead Supervisor/Supervisor. There may be time where the successful candidates will work alone.

We are looking for somebody who like us, puts the customer at the front of everything they do; is enthusiastic; thrives on a challenge, and is willing to learn and develop.

To be a successful Team Member you will need to be flexible as we plan to operate 7 nights a week.

This role will report to the Night Supervisor; however there may be times where the successful candidates will work alone.

We would love to hear from you also if you have:

- Face to face customer service experience
- Worked in the leisure or hospitality industries
- Experience of handling cash

Pay Rate: £9.00 – £10.50 (10pm – 6am)

So what's in it for you?

- A competitive salary
- We offer 28 days holiday (including bank holidays)
- Excellent Career Progression Opportunities

- Company Pension Scheme

The really important legal bits:

- You must be over 18 to work for us (due to gambling legislation)
- Praesepe PLC and our clients are committed to safeguarding and promoting the welfare of children and adults within a regulated activity. Certain roles require applicants to undergo screening appropriate to the post, including checks with previous employers and Disclosure Barring Service (DBS) and/or Disclosure Scotland.

How to apply?

We want to hear all about YOU! Tell us why you want to be part of our team and what experience you have that makes you awesome. Simply send us your CV and covering letter quoting job reference **TM05050520** to workforus@praesepeplc.com and we will be in touch shortly.