

SPEAKERS PANEL (LIQUOR LICENSING)

20 August 2020

Commenced:10.00am

Terminated: 1.45pm

Present: Councillors Sweeton (Chair), Bowden and Cartey

In Attendance:

Mike Robinson	Regulatory Services Manager
Rebecca Birch	Regulatory Compliance Officer (observer)
Margaret Warner	Legal Representative TMBC
Philip Kolvin, QC	Cornerstone Barristers
Richard Bradley	Poppleston Allen Solicitors
Amanda Kiernan	Cashino Gaming Ltd
Andy Tipple	Cashino Gaming Ltd
Gill Clulow	Cashino Gaming Ltd
Darrell Butterworth	Independent Licensing and Security Authority Compliance Consultant
Simon Watts	Registrar in Public Health
Councillor Laura Boyle	Droylsden East Ward Councillor – submitted representations
Reverend Sue Ball	Submitted representations
Pat Catterall	Submitted representations

7. DECLARATIONS OF INTEREST

There were no declarations of interest.

8. APPLICATION FOR A NEW GAMBLING PREMISES LICENCE – CASHINO GAMING LIMITED TRADING AS MERKUR SLOTS, UNIT 8 & 9, 17 QUEENS WALK, DROYLSDEN, M43 7AD

Consideration was given to an application for a new gambling premises licence – Cashino Gaming Limited trading as Merkur Slots, unit 8 & 9, 17 Queens Walk, Droylsden, M43 7AD.

The Regulatory Services Manager read out his report, as submitted and confirmed the statutory framework for consideration of the application. An amendment to the report was noted, in respect of the address of the applicant.

Philip Kolvin QC, then summarised his skeleton argument to the Panel and set out at length the relevant law, licensing objectives, codes of practice, TMBC policy and the additional scrutiny of the gambling commission that the applicant had already undertaken in respect of the operative's licence and Parliament's view.

He explained the relevant test, being: "In exercising its functions under the Gambling Act 2005 the licensing authority shall aim to permit the use of premises for gambling in so far as the authority thinks it is:

(a) in accordance with any relevant code of practice [issued by the Gambling Commission]

- (b) in accordance with any relevant guidance issued by the Commission
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b))
- (d) in accordance with the [authority's statement of licensing policy] (subject to (a) to (c)).

In addition, he addressed the relevant representations made by interested parties and the relevant evidence provided by the applicant to rebut the representations. The Panel was given a summary of the multi operation of the applicant, its policies and experience of key staff present to take questions from the panel, to assist with their deliberations in line with all the licensing objectives. A key factor was the considerations that the panel were able to take into lawful consideration, as per the gambling commission's guidance as follows.

(c) An authority's decision cannot be based on a dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (para 5.34). In their view, the representations from Public Health, Cllrs, Rev Ball and the member of the public appeared to a large extent to be based on morality, which was an irrelevant consideration. Any decision to reject the application based on this premise, would be wrong and unlawful. In addition, it was irrelevant for consideration, the demand for the product in Droylsden.

There were mandatory conditions from the gambling commission in relation to the operation and compliance of the applicant in respect of whether they operated in a lawful, fair and transparent way, which was the licensing objective 2. The gambling commission guidance stated that the licensing authority should note that this was duly considered whilst considering the award of the Operators licence in this regard. They had received favourable and positive feedback from the Police (main agency in respect of C & D) as they would have the benefit of the CCTV in the area and reporting any issues. There had been no representations or disapproval in relation to any of the Statutory Licensing Agencies.

A major concern regarding children under 18 in their experience was unfounded, as their clientele was of a certain demographic, the premises attracted people in single figures mainly as most games were via a tablet. Under 18 were not allowed on the premises at all and the advertising on the exterior of the premises, did not attract children and the inside of the premises could not be seen from outside at all. The customers were checked on entry re age via Think 25.

The applicant held licences for 2 types of classifications, 1, adult gaming centre and 2, bingo and gaming machines in their establishments. The operating hours (missing from the application) were confirmed as Sun-Thurs 9-12, Fri and Sat 9-2am. The applicant was one of the largest multi-operators in Europe, with 170 premises in the UK and this application was for a bingo premises. The Panel was advised that a customer could, via tablet, have access to bingo games on the tablet throughout the UK until midnight. They did not hold other events for viewing such as football matches or dog racing on their premises. They did not serve alcohol and it was not permitted on their premises 'full stop'.

The Panel was advised that residents of Droylsden could already access gambling premises in the area and online. In addition that they could access fatty foods, cigarettes and alcohol, some of which had age controls or contained information regarding health etc. There was no statistical evidence before the Panel that the addition of one more gambling premises would lead to an increase of Crime and Disorder. In respect of Public Health statistics, the figures were based on a national study and it was estimated in respect of Droylsden. The only evidence was in relation to 6 referrals for assistance. However the applicant was inviting public health to work with them in respect of staff training. In effect, the actual licence was the business and the applicant exercised corporate responsibility to a high standard and sat on trade bodies such as GamCare. They had never had a review of the licence in any of the premises and no representations had been received from any of the statutory licensing authorities.

The Regulatory Services Manager queried the level of door supervision at the premises, as it seemed that only a few members of staff would be on a rota on a daily basis, so concerns were raised in relation to the operation of Think 25, without adequate door supervision. The applicant

advised that based on their experience, local risk assessment, and evidence before the panel, that this was unlikely to be an issue. If an issue arose, it would be highlighted before the involvement of statutory licensing agencies, through their own incident logs and CCTV and action taken. They would also work with the police and licensing authority in respect of any issues. If necessary, they could employ door supervisors but legally the test is one of necessity for a condition to be imposed via the licence, if granted.

The Panel sought clarification regarding a practical walk through of the operation from a customer attending at the premises. The Panel were advised that the customer would be greeted at the door via Think 25 and details taken (photograph). Particularly since Covid 19, they had been stringent given track and trace requirements. On entry, the customer would be given a tablet to play bingo. Staff were not behind a screen but were proactively trained to walk around the premises and chat to customers to check for any issues in respect of problem gambling etc. They also operated a self-exclusion policy, which meant that if someone was excluded then they could not access any other operator's premises in the country. The applicant was also willing to work with Public Health and local schemes (start one up if there isn't one) in respect of GamCare.

There were further questions in relation to the number of people in the premises and the effectiveness of preventing vulnerable groups accessing the premises, which may lead to mixed messages to residents. The applicant relied on the extensive local risk assessment that had been produced to the Panel and the details of the social responsibility policies of the company.

There was a the concern from Public Health, Cllrs, member of the public and the Reverend, who had provided representations of the impact of this premises given the poverty and deprivation rates already in the area. The applicant stated that they had identified Droylsden on a list of possible sites for bingo premises, against their criteria. They had a number of establishments that met the same demographics of Droylsden and no issues had resulted. The local risk assessment had also assisted with formulating the operating hours it was seeking and it would also increase employment opportunities. The Panel were reminded that demand for the premises was not a legal consideration for the application in itself. The applicant repeated its assurance that it was also willing to work with Public Health and local schemes (start one up if there isn't one) in respect of GamCare.

Members of the Panel then retired to carefully consider the written report, representations and questions and answers during the hearing in addition to all the information provided. The Panel were accompanied by the Legal Representative and the Principal Democratic Services Officer who provided legal and procedural advice only and took no part in the decision making process.

It was explained that, in exercising its functions under the Gambling Act 2005 the licensing authority should aim to permit the use of premises for gambling in so far as the authority thinks it is:

- (a) in accordance with any relevant code of practice [issued by the Gambling Commission]
- (b) in accordance with any relevant guidance issued by the Commission
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b))
- (d) in accordance with the [authority's statement of licensing policy] (subject to (a) to (c)).

The Panel carefully considered the oral and written representations and submissions and was satisfied that, in this case;

- (a) the application was fully compliant with the relevant codes of practice;
- (b) it was fully compliant with the Commission's guidance;
- (c) it was reasonably consistent with the licensing objectives (which are in any event subject to (a) and (b));
- (d) it was in accordance with Tameside's policy (which is in any event subject to (a) to (c)).

The Act stated that the licensing authority should aim to permit the application. The Commission describes this as the authority's "primary obligation" (Guidance para 7.56).

As the Commission also advised, the Panel gave consideration to relevant considerations and in doing so had regard for the Gambling Commission's guidance that:

- (a) Licences should not be refused where relevant objections can be dealt with through the use of conditions (para 9.28);
- (b) Moral and ethical objections to gambling are not a valid reason to reject an application (para 5.34);
- (c) An authority's decision cannot be based on a dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (para 5.34);
- (d) Any refusal should be for reasons which demonstrate that the licensing objectives will not or are unlikely to be met (para 5.34).

The Panel accepted that in this case, all the requirements of the Gambling Commission's Codes and Guidance were met, as were the requirements of the licensing authority's own policy, which itself did not presume against applications in any given area.

The Panel therefore as per Section 163(1) and Section 169 (a) of the Gambling Act 2005 would grant the application subject to the following conditions:

Licence Conditions

1. The licensee's open and closing hours of operation will be 9am – midnight, 7 days a week.
2. No alcohol is permitted on the premises.
3. No further application for an alcohol licence is applied for from this licensee at this location.
4. The Licensee will proactively engage with Public Health, the licensing authority and the Police and any other public protection agencies, in respect of staff training.
5. The Licensee will be a pro-active member of PubWatch, BetScheme and Town Team.
6. The premises shall install and maintain a comprehensive CCTV system with all recordings stored for a minimum period of 31 days. Recordings shall be made available upon the request of Police or authorised officers of the Licensing Authority, subject to data protection legislative requirements.
7. Notices shall be prominently displayed within the premises stating that CCTV is in operation.
8. 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.
9. A think 25 proof of age scheme shall be operated at the premises.
10. Signage advertising the aforementioned proof of age scheme shall be prominently displayed throughout the premises.
11. There shall be no pre-planned single staffing at the premises from 17.30 until closing.
12. Individuals who are deemed to be under the influence of excessive alcohol shall not be allowed to enter the premises.
13. The licensee shall take reasonable steps to prevent nuisance directly outside the premises.

RESOLVED

That the Licence be granted, subject to the conditions, as detailed above.