



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** held on **Thursday, 10th December 2020**, This was a virtual meeting.

Members Present: Councillors Heather Acton (Chairman), Jim Glen and Aziz Toki

1. MEMBERSHIP

- 1.1. There were no changes to the Membership of the Sub Committee.
- 1.2. For the purposes of this meeting, the Chairman nominated Cllr Jim Glen as Substitute Chairman. Cllr Aziz Toki seconded the nomination. Cllr Glenn accepted the nomination and was duly appointed Substitute Chairman.

2. DECLARATIONS OF INTEREST

- 2.1. There were no Declarations of Interest.

3. LICENSING APPLICATION FOR DETERMINATION

The following licence application was presented to the Sub Committee for determination.

3.1. MERKUR CASHINO, 182-184 ROAD, LONDON W2 2DS

Present: Philip Kolvin QC (Counsel for the Applicant); Dr Richard Bradley, Poppleston Allen Solicitors (representing the Applicant); Amanda Kiernan (Head of Compliance, Cashino Gaming Ltd); Andy Tipple (Head of Product, Cashino Gaming Ltd); Steve Ambrose (Operations Director, Cashino Gaming Ltd); and Stuart Jenkins (Leveche Associates Ltd)

Representations: Representations had been received from the Licensing Authority.

Applicant: Cashino Gaming Ltd
Ward: Bryanston and Dorset Square
CIA¹: Edgware Road

¹ Cumulative Impact Area

Summary of Application

The application was for a new Gambling Premises Licence under the Gambling Act 2005 for premises at 182-184 Edgware Rd, London W2 2DS. The premises had been a William Hill Betting Shop prior to the surrender of its premises licence in August 2019. It was the Applicant's intention to turn the premises into a Bingo venue where bingo could be played on Bingo tablets, and Bingo Plus and Bingo Express terminals. In addition, provision would be made for non-remote Bingo to be played.

INTRODUCTION

The Chairman welcomed everyone to the meeting and introduced the Members of the Sub Committee and the Council Officers who would be supporting the Sub Committee before explaining the procedure that would be followed at the meeting.

The Chairman then invited the Presenting Officer, Ms Jessica Donovan, to present the report that was before the Sub Committee.

PRESENTATIONS AND SUBMISSIONS

Ms Jessica Donovan, Licensing Officer

Ms Donovan, Licensing Officer, summarised the application as set out in the report before the Sub Committee, noting that it was an application for a new bingo premises licence for 182-184 Edgware Rd, London W2 2DS. Ms Donovan stated that representations had been received from the Licensing Authority and the Metropolitan Police Service (MPS). However, following agreement on proposed conditions with the Applicant, the MPS had withdrawn their representations.

Additional information had been received from the Applicant and Ms Donovan stated that this information could be found in the Additional Information Packs 1 & 2. In addition, a skeleton argument prepared by Mr Kolvin had been circulated to Members and Officers.

In conclusion, Ms Donovan noted that the premises were within the Bryanston and Dorset Square Ward and were within the Edgware Road Cumulative Impact Area (CIA).

Mr Philip Kolvin QC, Representing the Applicant

Mr Kolvin thanked the Members of the Sub Committee for acknowledging that they had received and read his skeleton argument. He stated he was going to refer the Sub Committee to the "Proposed Operational Conditions" set out on pages 40 & 41 in Additional Information Pack 2, which listed 25 bespoke conditions. In so doing, Mr Kolvin stated he was going to make the following eight points to the Sub Committee.

1. Cashino Gaming Ltd

Mr Kolvin noted that Cashino Gaming Ltd was one of the most experienced and largest operators of gaming on the high Street in the UK. The company was registered with the Gambling Commission and, therefore, its suitability as an operator was not in question. The company systems for promoting the licensing objectives were internationally accredited, as was the quality of its national, area and local management; and its staff training systems had been audited by the Gambling Commission and accredited by GamCare.

2. Premises

The Applicant had 180 premises across the country, 50 of them in London, and many in very challenging locations. The Applicant operated to an excellent standard, reflected in the fact that there had never been a license review of any of its premises. The company planned its operations according to the locality, trained its staff appropriately, liaised with the relevant authorities and responded to any potential issues identified at the outset of opening new premises or after having opened new premises. In addition, the company subjected itself to regular audits by its field-based operatives; engaged independent mystery shoppers; and carried out test purchases.

3. Crime and Disorder

The Applicant's premises were rarely on the Police radar as the premises rarely generated crime and disorder. The customer demographic was 50% female and the premises surroundings were comfortable with free tea, coffee and snacks, and staff walked around the premises, engaging with customers. The number of players at any one time tended to be very low with players coming in, often alone or in couples, playing the machines for a short while, having a drink, and then leaving. Customers did not loiter either inside or outside the premises.

Staff were trained to monitor the outside of the premises and CCTV was deployed both inside and outside the premises. Any incidents were logged and reviewed at senior level and reporting lines were established with local police teams.

These considerations and proposed conditions agreed with the Metropolitan Police Service (MPS) had resulted in PC Lewis deciding to withdraw the Police representation on the application.

[PC Lewis had submitted a representation on the basis that the Police would require further information before deciding whether to maintain or withdraw its representation].

4. Sale of Alcohol

Licensed bingo premises were entitled to sell alcohol and to admit children. However, the Applicant chose not to do either of these things.

5. Council Policy

There was no presumption against licensing in particular locations within the Council's relevant policy e.g., there was no equivalent of a Cumulative Impact Area policy and the policy was, in keeping with similar policies across the UK, a merit based policy which asked applicants to demonstrate how they would promote the licensing objectives having regard to the sensitivity of the locality in which they propose to operate.

6. Legal Obligations

Should the licence be granted, the Applicant would be subject to extensive legal obligations arising from the Gambling Commission's Licence Conditions and Codes of Practice (LCCP); from mandatory conditions imposed by regulation on a bingo premises licence; the conditions offered by the Applicant (if agreed); and any conditions the Sub Committee might wish to add.

[Mr Kolvin then summarised the conditions set out in the “Proposed Operational Conditions” on pages 40 & 41 of Additional Information Pack 2].

7. Representations by the Licensing Authority

The Skeleton Argument provided a response to the questions raised by the Licensing Authority, which could be categorised, as follows –

(a) Does the Applicant manage gambling responsibly?

It was hoped, from the evidence presented, that the Sub Committee was of the view that the Applicant did manage gambling responsibly.

(b) Did the Applicant export Crime and Disorder issues?

The evidence and operational history indicated that the answer was “No”. In addition, the Applicant had allowed Mr Stuart Jenkins, an independent witness, to have free rein to enter any of its premises and, having visited nine premises, Mr Jenkins had nothing untoward to report in terms of management or environmental impact.

(c) Does it manage to prevent the import of children?

From its national history, the answer was “Yes”. Children were not attracted to enter the Applicant’s premises and there were competent controls in place to make sure children did not enter the Applicant’s premises.

The Applicant was committed to running a safe and lawful operation. If that required more or different resources than those implied by the Conditions, those resources would be made available in accordance with the periodic risk assessments carried out by the Applicant.

8. The Licensing Objectives

Addressing the Licensing Objectives –

- i. Ensuring gambling is kept free from crime and disorder;
- ii. Ensuring gambling is conducted in a fair and open way; and
- iii. Protection of children and vulnerable adults;

there was nothing in the history of the Applicant either nationally or locally or in London; or the content or style of its offer; or the layout of its premises; or its core demographic; or the training or supervision of its staff; or the kind of controls it applied or its systems of audit; or the views of the Police, which would suggest that to permit gambling here would harm the licensing objectives once the proposed Conditions were taken into account.

The Applicant prized its commitment to the Licensing Objectives and liaison with the authorities and, if there ever were issues, there were well resourced systems in place to handle any issues speedily and effectively.

In conclusion, Mr Kolvin respectfully asked that the Sub Committee approve the application.

Member’s Questions

In response to Member’s questions, Mr Kolvin provided the following information.

- (a) The Applicant did not operate any premises in Westminster, the nearest premises being in Tottenham Court Road and in Camden.

- (b) Mr Jenkins visited nine premises operated by the Applicant
- (c) The Bingo industry had developed the use of handheld tablet devices that could perform all the functions of a traditional game of bingo and allowed customers to continue to play as they moved around the premises. In addition, customers had the opportunity to play gaming machines.

Referring to a plan of the premises, Mr Kolvin identified the location of the seated gaming machines (70) and where the bingo machines (20) were located on a rack for use by customers. Mr Kolvin described how the bingo machines, which had Category C and D content, operated, and the games that were available. Regarding the gaming machines, 18 were Category B3² gaming machines, which constituted 20% of the total number of playable machines in the premises.

- (d) The tablets permitted a variety of Category C and D games to be played, but not Category B games. It was not possible to play bingo on the gaming machines, but customers could play Category B3, C and D games and only 18 allowed Category B3 (Adult) games to be played.
- (e) The Applicant had looked at the sensitivities of the location including the types of premises that were there and the residential population and had analysed the crime data. In response, the Applicant had offered a staffing condition that went beyond the staffing provision in many of its other premises *viz.*

Condition 7: There shall be no pre-planned single staffing at the premises from 12:00 hours until closing and no single staffing from 20:00 hours until closing”.

In addition, there was a magnetic door locking system (Maglock) and each Member of Staff had a fob allowing them to instantly contact StaffGuard (Conflict Management System), if necessary.

No SIA conditions had been attached to any of the Applicant’s premises licences. However, should anything untoward happen, the Applicant would employ SIA registered supervisors until such time as the issue had been resolved. Mr Kolvin stated that none of the Applicant’s premises had ever been subject to review of its licence, the reason being that the Applicant would not allow anything that might put its staff or customers in danger. A combination of risk assessments, discussions with the Police and proposed conditions had all formed part of the present application.

- (f) Regarding opening hours, the mandatory and default conditions were framed in such a way that the default hours for bingo were 09:00 hours to 00:00 hours and these hours could be varied. There were no default hours for gaming machines and if hours were not specified, the Applicant could allow customers to play gaming machines for 24 hours a day.

The Applicant had sought to extend the hours for bingo from 7 AM to 1 AM or 2 AM depending on whether it was Sunday to Thursday or Friday to Saturday. The test for restricting hours was “necessity” rather than appropriateness or proportionality. If the Sub Committee did feel there was a

² B3 gaming machines are restricted to Adult Gaming Centres.

need to restrict the hours, the Applicant had offered, in the skeleton argument, overall opening hours of 7 AM to 2 AM.

- (g) Regarding staff training in relation to vulnerable people, it was noted that it was not possible to identify persons who might be problem gamblers or otherwise vulnerable by looking at them. Therefore, staff were provided with accredited training in observing customer behaviour and to look for indicators that might suggest vulnerability. [Mr Kolvin then described the types of behaviour that staff were trained to identify as potentially indicative of vulnerability].

If a Member of Staff identified a customer who may have a gambling problem, that Member of Staff would engage with the customer to ask if they wished to review their gambling. [Mr Kolvin then explained how this process of engagement and review operated in practice and the resources available to customers to manage their gambling, including self-exclusion].

Other measures in place to protect vulnerable persons included independent field audits that were carried out on the Applicant's premises three times a year, and which included checks on what premises were doing to protect vulnerable people, and the knowledge and understanding of Members of Staff to determine if there was any requirement for training.

The Applicant was also engaged with two gambling charities: YGAM, an educational charity to safeguard young people against problematic gaming and gambling; and Betknowmore, a gambling support service addressing problematic issues caused by gambling. In addition, the Applicant donated to gambling charities.

- (h) Regarding local engagement and engagement with the Business Improvement District (BID), the Applicant was engaged with the Police and the Licensing Authority. If the licence was granted, the Applicant would routinely seek the guidance of the Licensing Authority in liaising with local organisations and, insofar as those organisations provided assistance and care, the Applicant would liaise directly with those organisations. In addition, as there was a six-week induction period before a premises opened, local organisations would be invited to participate in the training process and to impart local knowledge and information.
- (i) Regarding the Edgeware Road Cumulative Impact Area, the Applicant had carried out a detailed Local Area Risk Assessment which was at Page 70 of Additional Information Pack 1. The assessment had considered crime rates in both the immediate area and the wider area and the application had been discussed in detail with PC Bryan Lewis. [Mr Kolvin then detailed the discussions that had taken place with PC Lewis and the proposed conditions that had resulted from that discussion and from consultation with the Council's advisers on Crime and Disorder].
- (j) The inside of the premises would not be visible from the street. CCTV cameras would monitor activity outside the premises which was next to a McDonald's store where a lot of young people gathered as well as vulnerable young men of differing ethnicities. The front of the premises would display socially responsible messaging and signs would be clearly displayed stating that no one under 18 was permitted, under any circumstances, to enter the premises; that CCTV was in operation; that

alcohol could not be brought into the premises; and that smoking was not permitted.

Mr Kolvin stated that the Applicant was aware of the juxtaposition with the McDonald's premises next door. The premises would not be enticing to young people given its low-key interior; uniformed staff walking round the premises; and there being no opportunity to gather socially. However, should there be an issue of young people entering the premises, the Applicant would immediately address this concern.

- (k) The different character of Betting Shops, Adult Gaming Centres (AGCs) and Bingo Premises meant that people were more likely to smoke outside betting shops. The very low number of customers in bingo premises at any one time, and the amount of time they spent there, meant that there was very little reason to stand outside the premises to smoke. Also, people who tended to gather on the street did not do so outside bingo premises.
- (l) Regarding measures to prevent money-laundering, high specification technology in the gaming machines monitored the amount and frequency of transactions and alerted staff to suspect transactions or behaviour. To make the business profitable, it required a steady flow of customers over the course of a long period in any one day.
- (m) Members of Staff would deal humanely with any homeless people they encountered, but homeless people would not be permitted to enter or remain on the premises or use the machines. Furthermore, homeless people were generally aware of the premises where they would not be given entry.

Regarding those persons who were intentionally homeless and who had refused accommodation, Mr Kolvin acknowledged that homelessness was a complex matter and that the Applicant analysed each local area and was experienced in managing these types of social issue.

The Chairman thanked Mr Kolvin for his presentation.

Ms Michelle Steward, Representing the Licensing Authority

Ms Steward stated that the Licensing Authority had made representations in line with the Council's Policy BGO1(Bingo) which stated that applications and reviews would be determined subject to the relevant criteria in Policies OBJ1 to OBJ3, and other policies, including Policy LOC1 (Location Policy), within the Statement of Licensing Principles for Gambling.

Referring to Policy LOC1, which stated that –

“The sensitive location is defined as any premises which is within close proximity or on a main route to a school, educational institution, hostel or other sensitive locations where there is the potential for exposing children, young people or other vulnerable persons to gambling”;

Ms Steward noted that the proposed location of this new bingo venue must be considered as part of the application due to the local area profile and its potential to impact upon the promotion of the gambling objectives. Specifically, Ms Steward referred to the mix of venues on Edgware Road, including retail, restaurants, pubs and a casino.

Ms Steward then referred the Sub Committee to Policy OBJ1, as set out in her representation, which stated that –

“To prevent gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime, the Licensing Authority will apply the following criteria and take into account the following considerations where relevant in determining applications”

[The representation then listed the criteria and considerations].

In response to these policy considerations and questions posed in the Licensing Authority’s representations, the Applicant had proposed a condition regarding staffing levels and had agreed several conditions with the Police. The Applicant had also provided further plans to show the location of the premises’ CCTV cameras.

Regarding Policy OBJ2³, which requires that gambling must be conducted in a fair and open way, the Applicant had submitted additional information including operating procedures, training manuals and signage.

Referring to Policy OBJ3,⁴ which addressed protecting children and other vulnerable persons from harm or exploitation by gambling, Ms Steward noted that the definition of vulnerable persons included persons who gambled more than they wanted to gamble; people gambling beyond their means; and people who could not make informed decisions about their gambling due to mental impairment and/or the effect of alcohol and/or drugs.

In response to questions set out in the Licensing Authority’s representation about the definition of vulnerable persons, the Applicant had provided a definition that was in line with Westminster City Council’s policy. The Applicant had also submitted staff training guides in relation to vulnerable persons, self-exclusion forms, and contact details for local services and GAMCARE.

Ms Steward stated that the Sub Committee must also be satisfied that the Applicant had met all the requirements under Policy BG01 (Bingo).⁵ The Council’s “Statement of Licensing Principles for Gambling” stated that the reasons for Policy BG01 included –

*“To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo can be played in any premises for which a premises licence is issued ...”.*⁶

In conclusion, Ms Steward stated that the Sub Committee must be satisfied that the Applicant had met all the requirements regarding Policy BG01. In summary, to avoid a situation where a premises holds a bingo premises licence primarily to

³ "To ensure that gambling is conducted in a fair and open way, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews: [criteria & considerations]

⁴ "To protect children and other vulnerable persons from being harmed or exploited by gambling, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews. [criteria & considerations]

⁵ Applications and reviews will be determined, subject to the relevant criteria in Policies OBJ1, OBJ 2, OBJ3 and other policies within this statement [Statement of Licensing Principles for Gambling]

⁶ “Statement of Licensing Principles for Gambling”, Paragraph 23.4.

benefit from the gaming machine allowance; to ensure appropriate weight was given to Policy OBJ3; to ensure that the duties of young persons aged 16 to 17 who may be employed by the premises were not connected with gaming or gaming machines; and that applications were determined subject to the relevant criteria of Policies OBJ1 to OBJ3.

In response to questions by Members, Ms Steward provided the following information.

- (a) It was for the Sub Committee to take into consideration the sensitivity of the location of the premises when determining the application.⁷
- (b) Regarding Policy BGO1 and the reasons for that policy, including “*To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance*”, an application must not exceed the gaming machine allowance.⁸

Horatio Chance, Legal Adviser, Westminster City Council

Mr Chance confirmed that he would like clarification on a few conditions that had been discussed during the proceedings, as follows.

Additional Information Pack 2: Proposed Operational Conditions (Pages 40 & 41)

- (1) **Condition 10:** Individuals who are deemed to be under the influence of excessive alcohol shall not be allowed to enter the premises.

Mr Chance proposed that the wording be amended to include the words “refused entry to”. Mr Kolvin stated he had no objection to the revised wording.

[The Chairman subsequently proposed that the words “or drugs” also be added to this condition and this was agreed].

Amend to Read: Individuals who are deemed to be under the influence of excessive alcohol ***or drugs*** shall be ***refused entry to*** the premises.

- (2) **Condition 17:** There shall be an external camera at the premises which will provide live images to staff in the service counter area.

That the Applicant provide the relevant authorities with information as to the location of the external camera.

⁷ The Licensing Authority's representation noted that a 300-metre radius search of the premises had identified 4,689 residents and 19 licences under the Gambling Act 2005. A further search of the Council's GIS mapping system revealed four schools located within 300 metres from the premises, three hostels, and five Faith Groups.

⁸ [Gambling Commission Guidance Part 18: Bingo](#)

18.8: S.172(7) [of the Gambling Act 2005], as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises.... There are no restrictions on the number of category C and D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to subcategory B3 (SI 2007/2158: Categories of Gaming Machine Regulations 2007) (but not B3A) and B4 machines.

- (3) **Condition 22:** The Licensee shall implement a policy of banning any customers who engage in crime, disorder or antisocial behaviour within or outside the premises.

Amend to Read: The Licensee shall implement ***and maintain*** a policy of banning any customers who engage in crime, disorder or antisocial behaviour within or outside the premises.

- (4) **Condition 24:** The Licensee will ensure that customer toilets are checked hourly for evidence of drugtaking.

Amend to Read: The Licensee will ensure that customer toilets are checked hourly for evidence of drugtaking ***and a log/record kept for immediate inspection by authorised officers.***

Mr Kolvin stated that the amendments to the proposed conditions were agreed.

Regarding **Condition 17**, it was proposed by Mr Kolvin that the condition be amended to read, as follows –

17. There shall be an external camera at the premises, the position to be agreed with the Metropolitan Police, which will provide live images to staff in the service counter area.

[There followed a brief discussion on the location and types of cameras available].

Mr Simpkin suggested, considering the conversation that had just taken place, that Condition 17 be amended to read –

“17. There shall be an external camera at the premises that shall have sufficient coverage of the external frontage and which will provide live images to staff in the service counter area”.

After further discussion, during which Mr Kolvin confirmed that it was proposed that a dome camera be installed at this location which would provide wide coverage of the premises’ frontage, the revised wording, as proposed by Mr Simpkins, was agreed.

Mr Simpkin, Head of Licensing Policy, Westminster City Council

Mr Simpkin stated that he would like clarification on the proposed number of gaming machines. He noted that, on one of the plans of the venue in the papers before the Sub Committee, there were 48 seated gaming machine positions and the Applicant had referred to there being 70 machines in total.

Referring to the Premises Plans at Appendix 1 on Page 19 of the Agenda Pack, Mr Kolvin stated that, at the end of many of the rows of terminals shown on the Plan, there were three Tri-Max machines [listed under the “Machines Legend” on the Plan], each machine counting as one gaming machine.

In response to a further question about the Electronic Bingo Terminals (EBT’s) having access to Category C and D games, and whether they came within the required 20:80 split of gaming machines, as stipulated in the statutory provisions, Mr Tipple, Head of Product, Cashino Gaming Ltd.,

confirmed that all the EBT's were within the gaming machine allowance. He also confirmed that none of the gaming machines had any bingo content on them.

Regarding references to the premises being used primarily as a gaming machine establishment, Mr Kolvin stated that the content of the Applicant's offer in terms of gaming machines and bingo, and its general approach to the operating model had been approved by the Gambling Commission as part of the operating licence. By way of background, Mr Kolvin stated that there had been a discussion in regulatory circles a few years ago about activity that was primarily taking place in various types of licensed premises. In response to that discussion, the Gambling Commission Replaced Its Rule on "Primary Gambling Activity" and replaced it with the following rule⁹ –

Social Responsibility Code Provision 9.1.2

Gaming Machines in Gambling Premises – Bingo

All Non-Remote Bingo Operating Licences

1. *Gaming machines may be made available for use in licensed bingo premises only where there are also substantive facilities for non-remote bingo, provided in reliance on this licence, available in the premises.*
2. ...
3. *Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licence for the purposes of providing bingo facilities.*

To demonstrate its compliance with Paragraph 3, the Applicant had included a photograph¹⁰ of one of its premises' frontage which clearly stated, "Bingo Played Here".

Mr Kolvin suggested that the use of the word "primarily" in the Council's policy predated the discussion on primary use. He stated that, according to the Council's policy, the Sub Committee had to be satisfied that bingo could be played in any premises from which a premises licence was issued.

In response to a question by the Chairman, Mr Kolvin stated that, unlike other licensed premises, there was no bell curve or sinewave of customer footfall in and out of the applicant's premises. Instead, there was a regular and steady flow of a small number of customers with a short customer "dwell time" at the premises, with no issues of nuisance or impact. In addition, the Applicant monitored and predicted footfall and would roster staff accordingly.

In response to a further question by the Chairman regarding complaints by residents on Edgware Road about noise late at night, Mr Kolvin stated that it was not his client's experience that persons leaving late-night licensed venues then went to one of his client's premises which may be open 24 hours a day. What did happen was that people who had been working in restaurants or had finished shift work may visit the premises at late night.

⁹ Page 239 of Additional Information Pack 1

¹⁰ Page 13 of Additional Information Pack 2

Mr Kolvin went on to say that he did not rely on fact that the Gambling Act 2005 specifically excluded nuisance as a relevant consideration. He stated that it was his client's experience that there were more no more issues about nuisance late at night than there were during the day. He noted that it had been PC Lewis's view that, even with 24-hour opening, the demographic and product was such that it would not contribute to Crime and Disorder at night.

SUMMING UP

At this stage of the proceedings, the Chairman invited the various parties who had made representations to sum up their representations, if they so wished.

Philip Kolvin, QC (On Behalf of the Applicant)

Mr Kolvin asked that the Sub Committee, when Members retired to consider their decision, look at Paragraphs 25 and 26 of his skeleton argument¹¹, as follows –

Extract from the Skeleton Argument of Philip Kolvin, QC

The Law

25. As the Sub-Committee will be aware, each piece of licensing legislation sets out a different approach to the question of grant. The approach relevant to gambling is in section 153 of the Gambling Act 2005:

“In exercising their functions under this Part, a licensing authority shall aim to permit the use of premises for gambling insofar as the authority thinks it:

(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)).”

26. The following points should be noted:

a. The test is mandatory: *“a licensing authority shall...”*

b. The obligation to *“aim to permit”* where (a) – (d) are satisfied is described by the Gambling Commission in its guidance as *“the licensing authority's primary obligation”* (AIP1/136).

c. The *“aim to permit”* is explained in the leading textbook Paterson's¹² (AIP1/137):

“... It creates a presumption in favour of granting the premises licence since it is only if the licence is granted that the premises may lawfully be used for gambling. But the duty seems to go further than that. The verb ‘to aim’ is defined by the OED as meaning ‘To calculate one’s

¹¹ Mr Kolvin's skeleton argument is attached as Appendix 1 to these minutes.

¹² Jeremy Phillips (Editor), *“Paterson's Licensing Acts 2020”*: LexisNexis Butterworths, London 2020

course with a view to arrive (at a point); to direct one's course, to make one's object to attain. Hence to have it as an object, to endeavour earnestly...' A person who 'aims' to achieve a result will usually take active steps to bring it about. The provision appears to place a duty upon the licensing authority to exercise their powers so far as is lawfully possible to achieve a position in which they can grant the premises licence and thus permit the premises to be used for gambling."

As the Gambling Commission Guidance says:

"Licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through use of conditions" (AIP1/135).

- d. Conditions should only be added where it is necessary to do so, and even then, such conditions need to be proportionate to the circumstances requiring a response, relevant, directly related, fair and reasonable (AIP1/137).
- e. As the Guidance states: *"Any refusal should be for reasons which demonstrate that the licensing objectives will not or are unlikely to be met"* (AIP1/135). That means demonstrate by evidence.
- f. Conversely, the following considerations are legally irrelevant to the determination of an application for a premises licence:
 - i. A dislike of gambling (AIP1/135).
 - ii. A general notion that it is undesirable to allow gambling premises in an area (AIP1/135).
 - iii. Moral or ethical objections to gambling (AIP1/135).
 - iv. The demand for gambling premises (see section 153 Gambling Act 2005). As such, objections which state that there are enough gambling establishments in a locality may be relevant to planning, but they are irrelevant to licensing.
 - v. Planning considerations (see section 210 Gambling Act 2005).
 - vi. Nuisance (see Guidance by Gambling Commission, AIP1/131).

Extract Ends

Referring to the paragraphs in his skeleton argument, Mr Kolvin stated that the Gambling Act 2005 posed several questions, as follows:

Was the application –

1. In accordance with the relevant Codes of Practice?

It was his submission that it was.

2. In accordance with relevant guidance?

It was his admission that it was.

3. Was it reasonably consistent with the licensing objections?

The Gambling Commission reminded the Sub Committee that, in relation to “fair and open”, this objective was satisfied if the operator had an operating licence. The reference to “reasonably consistent” being hierarchical to 1 & 2 (above) and the “aim to permit” requirement. For the reasons set out in his presentation, it was the Applicant’s contention that the application was “reasonably consistent”.

4. Was it [subject to the foregoing], in accordance with the Statement of Licensing Policy?

It was the Applicant’s submission that the application was reasonably consistent with the Council’s Statement of Licensing Policy¹³ and that it met the requirements of all the relevant elements of the policy.

The Gambling Act 2005 said that the Sub Committee should “aim to permit” (the application). The Gambling Commission had said that is the Sub Committee’s primary obligation, and Paterson’s described this as a presumption i.e., the Sub Committee sets out to grant the application and, in so doing, if it hits a roadblock, it should consider what conditions might be necessary to overcome the roadblock. Mr Kolvin noted there had been a full discussion on proposed conditions and the hours of operation that the Applicant could accept that would make the application a viable business proposition.

Mr Kolvin referred to the Gambling Commission’s advice that an application should only be refused for reasons that can be demonstrated on the evidence that was before the Sub Committee. It was the Applicant’s contention that the evidence before the Sub Committee did not demonstrate that it was necessary to refuse the application.

In conclusion, Mr Kolvin stated that his client was a highly conscientious company and it knew, from experience, how to run these premises without causing harm to the licensing objectives, and which honoured its relationships with local authorities, local police and local caregivers, and that it would work with the local authority to ensure that the licence operated in a satisfactory, discreet and low-key manner and without harm.

Should the Sub Committee wish to discuss conditions, the Applicant would value being part of that conversation.

ADJOURNMENT

At this stage in the proceedings, the Chairman adjourned the meeting so that Members could retire to consider their decision. She stated that the Sub Committee would not announce its decision today but that a summary of the decision would be sent to the various parties within five working days.

The Chairman then closed the Live part of the virtual meeting.

DECISION

It was the Sub Committee’s decision to **APPROVE** the application as set out in **Appendix 2** of this minute.

¹³ Westminster City Council Statement of Gambling Principles

REASONS FOR THE DECISION

Having read the report by the Director of Public Protection and Licensing summarising the application and setting out representations by the Licensing Authority; and having read the additional information submitted by the Applicant in Additional Information Packs 1 & 2; and the skeleton argument submitted by Mr Philip Kolvin, QC, the Sub Committee, although concerned about the very large number of gaming machines proposed for the premises, was satisfied that, under the requirements of the Gambling Act 2005, and in accordance with the Gambling Commission's "Licence Conditions and Codes of Practice", it was correct to approve the application, subject to a restriction of the hours that the premises were authorised to operate and the added conditions, as agreed by the Applicant with the Metropolitan Police Service.

In reaching its decision, the Sub Committee noted that the default hours set by Parliament for bingo premises were:

- Bingo: 09:00 hours to 00:00 hours
- Gaming Machines: 24 hours

The Applicant had sought to change the default hours for bingo to:

- Sunday to Thursday: 07:00 hours to 01:00 hours
- Friday & Saturday: 07:00 hours to 02:00 hours.

In his skeleton argument, Mr Kolvin stated that, if necessary, the Applicant would be prepared to consider restricting its opening hours to 07:00 hours to 02:00 hours, Monday to Sunday.

Policy OBJ1

Notwithstanding that the Police had withdrawn their representation after agreeing conditions with the Applicant, the Sub Committee was of the view that it was necessary to restrict the opening hours to those referred to by Mr Kolvin in his skeleton argument i.e., 07:00 hours to 02:00 hours. In so doing, the Sub Committee was mindful of Council Policy OBJ1, which stated:

"To prevent gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime, the licensing authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews".

The criteria for policy OBJ1, stated at Paragraph 10.1 of the Council's Statement of Gambling Principles, was:

"Whether the premises make or will make a contribution to the levels of crime and disorder and whether the Applicant has demonstrated that he has, or intends to, implement sufficient controls to prevent gambling from being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted".

The relevant consideration for the Sub Committee in the present case was that set out in Paragraph 10.1.5 of the Statement of Gambling Principles which said:

"Whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder,

or used to support crime either as a place of association or to avoid apprehension”

As there were significant levels of crime late at night on Edgware Road, including money-laundering, as evidenced by the numerous conditions agreed between the Police and the applicant, the Sub Committee was of the view that it was necessary to restrict the hours of operation if the application was to meet the following Licensing Objective:

“To prevent gambling being a source of, or associated with, crime and disorder”.

Policy OBJ3

The Sub Committee was also mindful of Council Policy OBJ3, which stated:

“To protect children and other vulnerable persons from being harmed or exploited by gambling, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews”.

The reasons for Policy OBJ3, as set out at Paragraphs 12.2 to 12.4 of the Council’s Statement of Gambling Principles defined vulnerable persons as a group of persons including:

“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 a mental impairment, alcohol or drugs”.

The Sub Committee was aware of groups of young men of varying ethnicities who gathered on Edgware Road who may be classified as vulnerable persons. Applying the criteria for policy OBJ3, set out at Paragraph 12.1 of the Council’s Statement of Gambling Principles:

“Whether there are appropriate measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling”

and the relevant consideration set out at Paragraph 12.1.4 of the Statement of Gambling Principles:

“Whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling”;

the Sub Committee was of the view that, if the application was to promote the following licensing objective –

“To protect children and other vulnerable persons from being harmed or exploited by gambling”;

it was necessary that the hours of operation be restricted to the hours that Mr Kolvin had suggested in his skeleton argument and that the Applicant would be prepared to consider i.e., 07:00 hours to 02:00 hours.

The Meeting ended at 11.50 am

CHAIRMAN: _____

DATE _____

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WESTMINSTER CITY COUNCIL

LICENSING SUB-COMMITTEE

10TH December 2020

APPLICATION FOR BINGO PREMISES LICENCE

CASHINO GAMING LIMITED

182-184 EDGWARE ROAD, LONDON W2 2DS

SKELETON ARGUMENT ON BEHALF OF APPLICANT

Key:

Agenda papers page x = AP/x

Additional information pack Part 1 page x = AIP1/x

Additional information pack Part 2 page x = AIP2/x

INTRODUCTION

1. This is an application by Cashino Gaming Limited (“the applicant”) for a new bingo premises licence. The site is a former William Hill betting office, so in practical terms this application involves one gambling use replacing another.
2. The Sub-Committee has been presented with a large quantity of documents. The purpose of this skeleton argument is to help the Sub-Committee navigate the material by setting out some of the background to the application, addressing the representation made by the licensing authority, explaining the legal context under the Gambling Act 2005, and making brief concluding submissions.

3. In considering the application, the Sub-Committee may be particularly assisted by looking at the following documents:

- Witness statements:
 - Amanda Kiernan (AIP2/4)
 - Andy Tipple (AIP2/36)
 - Steve Ambrose (AIP2/38)
 - Stuart Jenkins (AIP1/6 and AIP2/42)
- Legal obligations to promote licensing objectives:
 - Gambling Commission's Licence Conditions and Codes of Practice applicable to non-remote bingo licences (AIP1/207)
 - Mandatory conditions attaching to bingo premises licences (AP/96)
 - Default conditions attaching to bingo premises licence (as proposed to be varied) (AP/97)
 - Proposed licence conditions for 182-184 Edgware Road (AP/97).
- Operational standards:
 - Cashino Gaming Limited General Operational Standards (AP/75).
 - Compliance and Social Responsibility Manual (AIP1/201).
 - Operational Manual (extracts) (AIP1/271).

BACKGROUND

4. The applicant is part of the Gauselmann group, which is one of the most experienced providers of gaming premises on the high street across the UK, including adult

gaming centres and bingo premises. Players in high street bingo premises access bingo games through the use of tablets, which are increasingly replacing paper bingo cards as provided in large, flat-floor bingo halls.

5. As one would expect, the applicant and its sister companies have detailed systems for compliance with the law and promotion of the licensing objectives, which they implement through staff training and management programmes and supervise through area and national management oversight and independent audit.
6. Bingo premises are subject to a high degree of regulation in order to support the licensing objectives, including the following:
 - Premises and their management and operation are subject to the Gambling Commission's extensive Licence Conditions and Codes of Practice applicable to non-remote bingo operating licences.
 - Premises licences are subject to mandatory and default conditions set by the Secretary of State with the approval of Parliament.
 - The number of machines, the way they operate and their stake and prize limits, are strictly regulated through the Gambling Act 2005 (by Parliament), regulations (by the Secretary of State) and technical standards (by the Gambling Commission). For example, at least 80% of the machines in bingo premises have the same stake and prize limits as pub fruit machines, with 20% governed by the same limits as other high street gambling establishment (AGCs and betting offices).
7. In addition, the applicant has offered a raft of individual licence conditions as mentioned above, on the basis of which the Metropolitan Police withdrew its representation.

The nature of high street bingo premises

8. Gambling on the high street in Great Britain is dominated by betting offices, both numerically and in terms of environmental impact. As to numbers, betting offices

outnumber bingo premises 11:1 (7,315 v 642¹). As to impact, betting offices can bring with them social issues, including street drinking and disorder and loitering outside. Hence, when an application is made for a bingo premises licence, it is sometimes thought, perfectly understandably, that it will bring with it the same kind of issues as arise at high street betting offices.

9. In fact, high street bingo premises in general and the applicant's in particular are completely different from betting offices in terms of local impact. It is therefore important to try to convey why the applicant's premises trade without regulatory concern.
10. *On arrival.* It is noticeable that groups do not loiter or gather outside high street bingo premises smoking, drinking, littering and importuning passers-by. The absence of such activity is not only observable empirically but is explained by several facts:
 - The customer demographic is different from betting offices. It is older and 50% female with customers coming in alone or with partners rather than in groups.
 - There are no "events" in bingo premises such as football matches or horse races and therefore no reason to hang around, and nowhere to cluster or socialise.
 - There are no general seating areas for people to gather inside. The premises are not fitted out for groups.
 - Alcohol is not only not sold but strictly prohibited.
 - Those under the influence of drugs or alcohol are not admitted.
 - Unlike in betting offices, staff are not behind the counter taking or paying out bets. They are there to greet customers as they enter, which also means controlling who is permitted to enter and effectively supervising the premises.
 - Good quality CCTV systems are fitted to the exterior of the premises and are monitored. Those outside know they are under surveillance. If loitering occurs, it is dealt with.
11. The effect on the streetscape is important. Those walking past high street bingo premises do not have to run the gauntlet of street drinkers or other groups, whether

¹ Gambling Commission industry statistics.

during the school run, the evening or otherwise. Consistent and authoritative evidence on this topic is given by Gill Clulow, Steve Ambrose and Stuart Jenkins (an independent witness who has visited several of the applicant's London premises. PC Lewis also confirmed that from his knowledge, these kind of premises do not raise cause for concern from the Police (AIP2/39).

12. *Exterior appearance.* The facades of high street bingo premises are smart, well-maintained and spotlessly clean. It is not possible to see gambling taking place inside, unlike (for example) betting offices or pubs which admit children. There is no advertising on the exterior which might be attractive to children: this is strictly controlled by the Advertising Standard Authority's Codes of Practice which are translated into legally enforceable regulation by the Gambling Commission's Licence Conditions and Codes of Practice. The exterior contains signage explaining that Think 25 is operated, that alcohol is not permitted and that CCTV is in operation, alongside responsible gambling messaging.
13. *Upon entry.* Those entering will be greeted face to face by a uniformed member of staff. This is an opportunity to ascertain whether the customer may appear to be under 25 (in which case Think 25 is operated), or whether there may be any other issue such as inebriation, in which case the customer will politely be asked to leave. The staff member will ascertain whether the customer needs any other form of assistance. This interaction means that staff are aware of who is using their premises. Again, this is unlike betting offices where staff are behind a counter taking and paying out bets.
14. *Appearance.* Like the exterior, the interior of premises is clean, well-lit, comfortable and carpeted. Toilet facilities are provided. Responsible gambling messaging is prominently displayed throughout the premises and on the machines. Customer information leaflets are similarly prominently displayed, explaining where and how to obtain help with problem gambling.
15. *Participation.* Customers have an opportunity to play bingo on tablets, which includes being linked to a national game, and to play machines, the limits for which are set by law. During their stay they will be offered tea/coffee and snacks, and will often chat with the friendly staff. When they are finished playing they wander off with zero impact on the locality.

16. *Protection of vulnerable people from being harmed or exploited by gambling.* So far as vulnerable persons are concerned:

- Alcohol is not permitted in Cashino bingo premises.
- Those who are intoxicated through alcohol or drugs are not permitted on the premises.
- As required by the Gambling Commission's Licence Conditions and Codes of Practice, Cashino's systems include processes for customer interaction and self-exclusion, operated by trained staff. Interventions are recorded electronically so that they can be overseen by independent compliance auditors.
- Customers are encouraged to use a self-help, app-based tool named Play Right to assist them with managing their gambling behaviour.
- "Stay in Control" posters and leaflets with the GamCare helpline number are located prominently in the premises, including the WC. An example is at AIP2/35.
- All machines display responsible gambling messages with helpline contact details.
- To elaborate slightly, GB regulation of gambling premises places great focus on customer interaction, which the applicant takes extremely seriously. If a customer is showing signs of problem gambling, a trained staff member will interact with the customer. This may lead to a number of outcomes, including: customer opting to cease playing; self-referral to a care provider; self-exclusion; customer signing up for the applicant's Play Right app, or the customer being banned. Outcomes are recorded on staff tablets (along with other relevant events) which are then reviewed at national level to ensure that the conduct of individual staff members is correct. Interaction data is supplied to the Gambling Commission to ensure that the obligation is being met across the company. The applicant's approach to protecting vulnerable people is approved by the Gambling Commission through the operating licence and is

also internationally accredited (AIP2/16), while the staff training is accredited by Gamcare. (The applicant is amenable to local statutory or other bodies participating in the training to ensure that the local context is fully conveyed.) The applicant subjects itself to independent field-based audit, mystery shopping and test purchasing. It is also the subject of an annual assurance statement to the Gambling Commission.

17. *Protection of children from being harmed or exploited by gambling.* As regards this objective:

- Although children are entitled to enter bingo premises as a matter of law, children are not allowed in the applicant's premises.
- The exterior contains no advertising or marketing which might be attractive to children.
- Gambling cannot be seen from the outside unlike, say, in betting offices and sometimes pubs.
- The exterior (and the interior) contains prominent messaging stating that Think 25 is applied.
- Those entering are greeted by staff members, so that their appearance is checked immediately.
- Staff are required to log all Think 25 events on their tablets, with premises data checked by the applicant's audit department to ensure that the system is being properly operated.
- Third party age verification testing is conducted at least three times a year.

It is fair to report that the outward appearance, interior ambience, supervision, layout and product in bingo premises are not attractive to children, and its systems have proved more than effective to ensure that underage gambling is not an issue in Cashino premises. It is also right to mention that, trading on busy high streets nationally, premises are almost always in close proximity to fast food outlets attractive to children, but this has not proved problematic.

18. *Security.* As stated above, the applicant does not suffer significant issues with crime and disorder. This is a function of the customer demographic, the ban on alcohol and the nature of the product, but is also because of the measures taken by the applicant to prevent it:

- Staffing levels are set following a security risk assessment. In this case, the applicant will have no pre-planned single staffing after noon and no single staffing at all after 8 p.m. (proposed condition 7 and 15).
- Customer numbers are low, with usually only a handful of customers in the premises. Double digit numbers occur very rarely. This means that miscreant behaviour is immediately identified, recorded and dealt with.
- The layout of the premises facilitates effective supervision. There is no space for groups to gather.
- Staff members are on the trading floor, not behind a counter.
- Good quality CCTV is used throughout and customers are aware they are monitored.
- The use of Staff Guard which enables staff to use a portable alarm to liaise with a central security hub and SIA-licensed staff with audio and visual feeds, and for hub staff to speak directly with customers who therefore know they are being overseen. Staff Guard personnel can liaise directly with local Police if necessary.
- Staff members do not carry floats.
- Safes are time-delayed.
- Anti-money laundering systems are used on the machines.
- The locational and social context is part of induction training for all staff.
- Staff are also trained in how to deal with difficult customers (there is a 6 week training course at the outset followed by regular refresher training).

- Any incidents are logged on the tablet and reviewed at national level.
- Premises are fitted with maglocks, enabling entry to be controlled when necessary. In this case, the applicant has proposed a condition that the maglock will always be in use after midnight.
- The applicant maintains good liaison with local Police.
- It will also join any available Betwatch scheme.

THE REGULATORY RECORD OF THE APPLICANT

19. In the previous section, we have briefly described the standard controls used by the applicant to provide a safe, welcoming and congenial environment for customers while also promoting the licensing objectives.

20. **That it does all of this to a standard of excellence is demonstrable:**

- **It has over 180 licences. It has been granted licences in every premises it has applied for.²**
- **It has never experienced a licence review.**

21. This is despite the range of areas in which the applicant operates, including some with higher social deprivation and other social issues. Its systems, staff training, compliance monitoring and audit have proved sufficient to ensure that the licensing objectives are promoted.

22. It is a record of which the applicant is proud and guards assiduously. In the very rare event of any kind of issue, Cashino will always liaise with relevant authorities to ensure that it is resolved promptly and effectively.

² For completeness, there was one refusal in Blackpool but this was granted on re-application three months later following submission of further information.

REPRESENTATION

23. In this case, the only extant representation before the Sub-Committee is from the licensing authority itself. It is not understood to amount to an objection or recommendation for refusal, as opposed to questions which the applicant should address.
24. It is hoped that setting out the matters raised and brief replies will demonstrate that the applicant has properly dealt with all relevant questions.

	Representation	Reply
1	What is the applicant's definition of vulnerability and what does it mean to their operation.	<p>The applicant works to the approach in the Gambling Commission's Guidance (para 5.17), which is also replicated in WCC's policy (para 13.4): "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."</p> <p>The applicant places protection of vulnerable people at the forefront of its operation, as set out above and below.</p>
2	The location must be considered as part of the application due to the local area profile and its potential to impact on the gambling objectives.	The applicant has conducted and updated a detailed risk assessment which takes full account of the characteristics of the location and sets out control measures, including licence conditions going beyond the Licence Conditions and Codes of Practice and the Mandatory and Default Conditions, together with the applicant's well-thought through operational measures, to protect the licensing objectives. Its record demonstrates that such protection is at the forefront of its operating model, not an incidental obligation.
3	How many sites does Cashino have and where they are located?	<p>Cashino operates over 180 licences nationwide. It operates in many large town and city centres, including challenging locations.</p> <p>It has 50 London premises as set out below although has recently been granted five further licences in</p>

		<p>Wandsworth, Barnet, Hounslow and Hackney. Its premises are:</p> <ul style="list-style-type: none"> • 69 Tottenham Court Road • 107 Camden High Street, Camden Town • 297 Kentish Town Road, Kentish Town • 130 Kilburn High Road, Kilburn • 200 Cricklewood Broadway, Cricklewood • 19 The Concourse, Edmonton Green Shopping Centre • 12 The Broadway, Southall • 37-39 King Street, Southall • 847 High Road, North Finchley • 456 Holloway Road, Holloway • 65 Tooting High Street, London • 478 High Road, Wembley • 91 High Road, Wood Green • 304 Neasden Lane • 123-124 Lower Marsh, Waterloo • 57 London Road, Morden, Surrey • 353-355 Walworth Road, Camberwell • 12 High Street, Croydon • 272 North End Road, Fulham • 97-99 Lewisham High Street • 110 Streatham Hill, Streatham • 63 High Street, Bromley • 92 High Street, New Malden • 65 Tooting High Street • 83-85 Powis Street, Woolwich • 48-50 Camberwell Church Street, Camberwell • 67/69 Rye Lane, Peckham • 152 High Street, Putney • 22 The Market, Wrythe Lane, Carshalton • 23-25 High Street, Sutton • 795 High Street, Leytonstone • 157 High Street North, East Ham • 37 High Street, Hornchurch • 72-74 Bellgrove Road, Welling • 403-405 Green Street, Upton Park, Plaistow • 87 Whitechapel High Street, Aldgate • 211-213 High Road, Whitechapel • 368-370 Barking Road, Plaistow • 420 Bethnal Green Road, • 62 East Street, Barking • 92 South Street, Romford
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		<ul style="list-style-type: none"> • 25 The Broadway, West Ealing • 424 Greenford Road, Greenford, London • 458 Greenford Road, Greenford • 84-86 King Street, Hammersmith • 148 High Street, Hounslow • 237-239 High Street, Hounslow • 96-98 Uxbridge Road, Shepherds Bush • 49 The Broadway, Ealing • 157-159 High Street, Acton
4	How are its sites operated and managed?	<p>The applicant has provided: Cashino Gaming Limited General Operational Standards (AP/75). Compliance and Social Responsibility Manual (AIP1/201). Operational Manual (extracts) (AIP1/271).</p> <p>Its staff are subject to 6 week induction training and then twice-yearly refresher training.</p> <p>They are managed and monitored in four different ways: By their own managers. By area managers. Through the data regarding the operation that they are required to enter on their smart tablets, e.g. age verification challenges, customers interactions, self-exclusions, incidents etc. This is monitored centrally. Through independent audit of venues' performance.</p> <p>Each premises must comply with: Licence conditions and codes of practice. Mandatory and default conditions. Individual licence conditions. Other national rules, e.g. stake and prize limits on machines.</p> <p>The applicant is regulated by the Gambling Commission and is bound by the Licence Conditions and Codes of Practice. It is required to submit regulatory returns to the Gambling Commission, notify the Commission of key events and provide an annual assurance statement regarding its commitment at board level to the licensing objectives. It is also required to have personal licence holders occupying key functions. The applicant has over 50 personal licence holders in the organisation.</p> <p>The applicant goes well beyond legal requirements in several respects, e.g. the Play Right App, Socially</p>

		<p>Responsible Machine Messaging and its two national training centres.</p> <p>It has recently engaged with the gambling addiction support service Betknowmore who will be working alongside YGAM (a charity focussing on young people and gambling) to develop its face to face interaction training, including the use of former gambling addicts to facilitate parts of the training, which will be accredited by City and Guilds.</p>
5	Does the applicant have a referral scheme in place regarding self-exclusion?	Yes.
6	Is the onus on the individual to self-exclude?	<p>A customer may self-exclude of their own volition without any intervention. It is simply a question of signing a form.</p> <p>Staff are also trained to engage in customer interactions, during which the staff member may ask the customer to consider self-exclusion.</p> <p>Since the applicant is part of the multi-operator self-exclusion scheme, self-exclusion results in exclusion from all bingo premises nationally.</p> <p>If the staff member considers that the customer should not be gambling, s/he may bar the customer.</p>
7	What links does the premises have with local services to provide support?	<p>In terms of support, the applicant works with Gamcare, which is a national charity with resources and knowledge to provide the right assistance.</p> <p>However, the applicant will always liaise with local care providers as appropriate and as suggested by the licensing authority.</p>
8	Will the applicant advertise promotional material associated with the premises? This could encourage the use of the premises by children or young people.	No.
9	How will the applicant control customers bringing alcohol onto the premises to consume while gaming? Or	Signs banning alcohol are clearly posted on the exterior of the premises and the rule is strictly enforced. Staff greet customers when they come in. If they are intoxicated or carrying alcohol they are politely asked to leave. If they refuse, the Police will be called and they will be banned. These processes are

	entering the premises in an intoxicated state.	strictly complied with from day 1 and, because of this, cause no issues elsewhere.
10	How is Challenge 25 operated and checked? Will there be a staff member at the entrance of the venue? Will there be SIA door staff present?	<p>This is dealt with above. Any AV checks are conducted by staff who greet customers on entry. Numbers of customers are very low so this presents no difficulties. The number of staff is rostered following analysis of customer numbers during different days and times, to ensure that these obligations are complied with.</p> <p>The applicant has no licences requiring SIA door staff in its whole estate, because they are not required, given the demographic and numbers of customers, the general absence of crime and disorder and the fact that their premises are not generally attractive to young people.</p> <p>In these premises, the applicant will plan to double-staff the premises from noon onwards.</p>
11	What signage is placed on the windows and doors?	The applicant places prominent signage: regarding Think 25; stating that children are not permitted to enter; stating that CCTV is operation; stating that alcohol is banned and that smoking is prohibited, together with gamble responsibly messaging.
12	What training is given re identifying vulnerable people and providing support?	<p>The applicant has provided information as to the staff training regarding identification and support at</p> <ul style="list-style-type: none"> - AP/36-42. - AP/77-82. - AIP1/171-199. <p>The applicant's approach to training is approved by the Gambling Commission and Gamcare and has received international accreditation.</p>
13	Due to the location of the premises close to fast food premises, the authority expresses concern re the possibility of attraction of children and vulnerable people.	The applicant trades in busy high street locations both in London and nationwide, including many sites abutting dense residential areas and near to fast food premises, schools and care facilities. It always assesses local risks and reviews its assessment after opening, and liaises with relevant authorities. It monitors and audits the operation and makes any necessary changes in the light of experience. That it does so to a standard of excellence is reflected in the fact that it has never experienced a licence review. A significant number of its premises are close to McDonalds units and there is no evidence that this causes particular issues, e.g. with age verification, for all the reasons set out above.
14	Policy OBJ1: sufficient controls re crime and disorder.	As stated above, crime and disorder is a rare occurrence in high street bingo premises. There is no alcohol, no crowds, no flashpoints, no gathering

		places internally, and the premises have full CCTV coverage. Staff to customer ratios are high and staff walk the floor so that criminal conduct would always be noticed and recorded. The measures to prevent crime and disorder are set out above, and are supplemented in this case by suggested conditions 9-12 and 15-19, which were satisfactory to the MPS.
15	Policy OBJ1: layout, lighting and fitting out to be designed to minimise conflict and opportunities for crime and disorder.	The premises are well-lit, with full coverage CCTV (see AIP1/89) and laid out to facilitate effective supervision (see AIP1/88).
16	<p>Would the applicant consider reducing hours to 09:00 – 00:00?</p> <p>Are longer hours necessary?</p> <p>How many members of staff will be conducting age verification, being on a route to a school and next to a fast food outlet.</p>	<p>The default hours set by Parliament for bingo premises are:</p> <ul style="list-style-type: none"> • Bingo 09:00 to 00:00 • Gaming machines: 24 hours. <p>The applicant seeks to change the default hours for bingo to:</p> <ul style="list-style-type: none"> • Sun – Thur 07:00 to 01:00 • Fri – Sat 07:00 to 02:00 <p>For comparison, in the near vicinity of the premises are the Grosvenor Victoria Casino and also The Little Vic Adult Gaming Centre, which each have 24 hour licences.</p> <p>The question of whether there is a need for the activities applied for is a statutorily irrelevant question under section 153 Gambling Act 2005.</p> <p>However, the applicant should make it clear that, unlike other types of licensed premises, it does not depend on large peaks of activity. Its ability to trade at all depends on being able to trade for long hours to service all the town centre users who may wish to use its facilities. It would not be able to proceed if the hours suggested by the licensing authority were imposed.</p> <p>The test in relation to hours is whether there is an evidenced necessity: see Gambling Commission Guidance para 9.28 (AIP1/137).</p> <p>Here, there is no evidence that longer hours will actually be harmful to the licensing objectives and the applicant’s extensive experience is that they are not. Furthermore, the Police have not maintained a</p>

		<p>representation.</p> <p>So far as late hours are concerned, the applicant does not experience the kind of crime and disorder experienced in and around pubs and clubs and in any case protects itself, its staff and customers from such issues. So far as school hours are concerned, its experience is that children are just not interested in trying to gain entry, and in any case it rosters sufficient staff to manage any such risk.</p> <p>If it should fail in its compliance responsibilities, the remedy of review is open, but this has never happened.</p> <p>The applicant strongly maintains that there is no evidence that a restriction of opening hours is necessary, but if the Sub-Committee considers it necessary, it would be prepared to consider 07:00 to 02:00 Monday to Sunday.</p>
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THE LAW

25. As the Sub-Committee will be aware, each piece of licensing legislation sets out a different approach to the question of grant. The approach relevant to gambling is in section 153 of the Gambling Act 2005:

“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 thinks it:

(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)).”

26. The following points should be noted:

- a. The test is mandatory: *“a licensing authority shall”*

- b. The obligation to “*aim to permit*” where (a) – (d) are satisfied is described by the Gambling Commission in its Guidance as “*the licensing authority’s primary obligation*” (AIP1/136).
- c. The “*aim to permit*” is explained in the leading textbook Patersons (AIP1/137):

“... it creates a presumption in favour of granting the premises licence since it is only if the licence is granted that the premises may lawfully be used for gambling. But the duty seems to go further than that. The verb ‘to aim’ is defined by the OED as meaning ‘To calculate one’s course with a view to arrive (at a point); to direct one’s course, to make it one’s object to attain. Hence to have it as an object, to endeavour earnestly....’ A person who ‘aims’ to achieve a result will usually take active steps to bring it about. The provision appears to place a duty upon the licensing authority to exercise their powers so far as is lawfully possible to achieve a position in which they can grant the premises licence and thus permit the premises to be used for gambling.”

As the Gambling Commission Guidance says:

“Licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through use of conditions” (AIP1/135).

- d. Conditions should only be added where it is necessary to do so, and even then such conditions need to be proportionate to the circumstances requiring a response, relevant, directly related, fair and reasonable (AIP1/137).
- e. As the Guidance states: “*Any refusal should be for reasons which demonstrate that the licensing objectives will not or are unlikely to be met*” (AIP1/135) That means demonstrate by evidence.
- f. Conversely, the following considerations are legally irrelevant to the determination of an application for a premises licence:
 - i. A dislike of gambling (AIP1/135).
 - ii. A general notion that it is undesirable to allow gambling premises in an area (AIP1/135).

- iii. Moral or ethical objections to gambling (AIP1/135).
- iv. The demand for gambling premises (see s 153 Gambling Act 2005). As such, objections which state that there are enough gambling establishments in a locality may be relevant to planning, but they are irrelevant to licensing.
- v. Planning considerations (see section 210 Gambling Act 2005).
- vi. Nuisance (see Guidance by Gambling Commission, AIP1/131).

SUBMISSIONS

27. In the light of the above, the applicant's submissions can be stated very briefly:

- The applicant is a highly competent organisation, regulated by the Gambling Commission, and one whose corporate systems, staff training, management and audit are directed towards promotion of the licensing objectives.
- It is part of a group which operates 180 licensed gambling premises in a wide variety of locations of higher and lower deprivation and population density.
- Despite that, it has never experienced a regulatory review or prosecution.
- There is no evidence before the Sub-Committee that it has failed to promote the licensing objectives elsewhere.
- The type of premises, their customer demographic, the low numbers of customers simultaneously using premises and the quality of management mean that issues of crime and disorder are rare.
- It has actually traded, and continues to trade, at a large number of locations in London, of varying degrees of challenge and deprivation, without regulatory intervention or complaint.
- The premises, if licensed, will be subject to strict regulatory requirements, deriving from: the Licence Conditions and Codes of Practice; machine stake,

prize and numbers limits, and mandatory and default premises licence conditions.

- Following a risk assessment, the applicant has offered a set of 14 further licence conditions which are designed to protect the licensing objectives at this site in this location. The conditions were the basis of the withdrawal of the Police representation.
- The applicant has a strong track record of co-operation with local statutory bodies. In the unlikely event of an untoward consequence, Cashino Gaming Limited will work to resolve the issue promptly and efficiently.

28. For these reasons, it is submitted that the test in section 153 is fully met. Conversely, taking into account the competence and track record of the applicant (nationally and locally), its legal obligations under the Act, Regulations and codes, and the comprehensive suite of individual licence conditions to which it is proposing to submit, it has not been demonstrated that the licensing objectives are unlikely to be met.

29. Accordingly, the Sub-Committee is respectfully invited to grant the application as asked.

PHILIP KOLVIN QC
9th December 2020

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Temple EC4

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**WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO. 1
("THE COMMITTEE")**

Thursday 10 December 2020

Membership: Councillor Heather Acton (Chairman), Councillor Jim Glen and Aziz Toki

**APPLICATION FOR A NEW GAMBLING PREMISES LICENCE IN RESPECT OF
MERKUR CASHINO, 182-184 EDGWARE ROAD, LONDON W2 2DS
[20/08155/LIGN]**

FULL DECISION

Premises

Merkur Cashino, 182-184 Edgware Road, London W2 2DS

Applicant

Cashino Gaming Ltd

Cumulative Impact Area?

Edgware Road

Special Consideration Zone

N/A

Ward

Bryanston and Dorset Square

Summary of Application

The application was for a new Gambling Premises Licence under the Gambling Act 2005 for premises at 182-184 Edgware Rd, London W2 2DS. The premises had been a William Hill Betting Shop prior to the surrender of its premises licence in August 2019. It was the Applicant's intention to turn the premises into a Bingo venue where bingo could be played on Bingo tablets, and Bingo Plus and Bingo Express terminals. In addition, provision would be made for non-remote Bingo to be played.

Activities and Hours applied for

A Bingo Premises Licence authorising the Premises to be used for the provision of facilities for the playing of Bingo and other gaming machine use.

The default hours set by the *Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007* are:

- Bingo: 09:00 hours to 00:00 hours
- Gaming Machines: 24 hours

The Applicant had sought to change the default hours for bingo to:

- Sunday to Thursday: 07:00 hours to 01:00 hours
- Friday and Saturday: 07:00 hours to 02:00 hours.

The Committee was advised that the Applicant if necessary was prepared to consider restricting its opening hours for all categories of gambling Monday to Sunday 07:00 hours to 02:00 hours.

Representations Received

- Metropolitan Police Service (Bryan Lewis) (withdrawn)
- Licensing Authority (Michelle Steward)

Summary of issues raised by objectors

- Minimal information has been provided showing how the premises would promote the licensing objectives;
- Clarification is needed on how the applicant defines a vulnerable person;

Policy Position

There is no policy to refuse this application and so the matter will be determined on merit based upon the promotion of the licensing objectives. Policies BG01, OBJ1, OBJ2, OBJ3 and LOC1 apply under the City Council's Statement of Licensing Principles for Gambling.

DECISION AND REASONS

Ms Donovan, Senior Licensing Officer, summarised the application as set out in the report before the Sub Committee, noting that it was an application for a new bingo premises licence for 182-184 Edgware Rd, London W2 2DS. Ms Donovan stated that representations had been received from the Licensing Authority and the Metropolitan Police Service (MPS). However, following agreement on proposed conditions with the Applicant, the MPS had withdrawn their representations. Additional information had been received from the Applicant and Ms Donovan stated that this information could be found in the Additional Information Packs 1 & 2. In addition, a skeleton argument prepared by Mr Kolvin had been circulated to Members and Officers. In conclusion, Ms Donovan noted that the premises were within the Bryanston and Dorset Square Ward and were within the Edgware Road Cumulative Impact Area (CIA).

Mr Philip Kolvin QC on behalf of the Applicant addressed the Sub Committee. He made the following eight points to the Sub Committee.

1. Cashino Gaming Ltd – Mr Kolvin noted that Cashino Gaming Ltd was one of the most experienced and largest operators of gaming on the high Street in the UK. The company was registered with the Gambling Commission and, therefore, its suitability as an operator was not in question. The company systems for promoting the licensing objectives were internationally accredited, as was the quality of its national, area and local management; and its staff training systems had been audited by the Gambling Commission and accredited by GamCare.
2. Premises – The Applicant had 180 premises across the country, 50 of them in London, and many in very challenging locations. The Applicant operated to an excellent standard, reflected in the fact that there had never been a license review of any of its premises. The company planned its operations according to the locality, trained its staff appropriately, liaised with the relevant authorities and responded to any potential issues identified at the outset of opening new premises or after having opened new premises. In addition, the company subjected itself to

regular audits by its field-based operatives; engaged independent mystery shoppers; and carried out test purchases.

3. Crime and Disorder – The Applicant’s premises were rarely on the Police radar as the premises rarely generated crime and disorder. The customer demographic was 50% female and the premises surroundings were comfortable with free tea, coffee and snacks, and staff walked around the premises, engaging with customers. The number of players at any one time tended to be very low with players coming in, often alone or in couples, playing the machines for a short while, having a drink, and then leaving. Customers did not loiter either inside or outside the premises. Staff were trained to monitor the outside of the premises and CCTV was deployed both inside and outside the premises. Any incidents were logged and reviewed at senior level and reporting lines were established with local police teams. These considerations and proposed conditions agreed with the Metropolitan Police Service (MPS) had resulted in PC Lewis deciding to withdraw the Police representation on the application. [PC Lewis had submitted a representation on the basis that the Police would require further information before deciding whether to maintain or withdraw its representation].
4. Sale of Alcohol – Licensed bingo premises were entitled to sell alcohol and to admit children. However, the Applicant chose not to do either of these things.
5. Council Policy – There was no presumption against licensing in particular locations within the Council’s relevant policy e.g., there was no equivalent of a Cumulative Impact Area policy and the policy was, in keeping with similar policies across the UK, a merit-based policy which asked applicants to demonstrate how they would promote the licensing objectives having regard to the sensitivity of the locality in which they propose to operate.
6. Legal Obligations – Should the licence be granted, the Applicant would be subject to extensive legal obligations arising from the Gambling Commission’s Licence Conditions and Codes of Practice (LCCP); from mandatory conditions imposed by regulation on a bingo premises licence; the conditions offered by the Applicant (if agreed); and any conditions the Sub Committee might wish to add. [Mr Kolvin then summarised the conditions set out in the “Proposed Operational Conditions” on pages 40 & 41 of Additional Information Pack 2].
7. Representations by the Licensing Authority – The Skeleton Argument provided a response to the questions raised by the Licensing Authority, which could be categorised, as follows –
 - a. Does the Applicant manage gambling responsibly?

It was hoped, from the evidence presented, that the Sub Committee was of the view that the Applicant did manage gambling responsibly.
 - b. Did the Applicant export Crime and Disorder issues?

The evidence and operational history indicated that the answer was “No”. In addition, the Applicant had allowed Mr Stuart Jenkins, an independent witness, to have free rein to enter any of its premises and, having visited nine premises, Mr Jenkins had nothing untoward to report in terms of management or environmental impact.
 - c. Does it manage to prevent the import of children?

From its national history, the answer was “Yes”. Children were not attracted to enter the Applicant’s premises and there were competent controls in place to make sure children did not enter the Applicant’s premises.

The Applicant was committed to running a safe and lawful operation. If that required more or different resources than those implied by the Conditions, those resources would be made available in accordance with the periodic risk assessments carried out by the Applicant.

8. The Licensing Objectives – Addressing the Licensing Objectives –

- a. Ensuring gambling is kept free from crime and disorder;
- b. Ensuring gambling is conducted in a fair and open way; and
- c. Protection of children and vulnerable adults;

There was nothing in the history of the Applicant either nationally or locally or in London; or the content or style of its offer; or the layout of its premises; or its core demographic; or the training or supervision of its staff; or the kind of controls it applied or its systems of audit; or the views of the Police, which would suggest that to permit gambling here would harm the licensing objectives once the proposed Conditions were taken into account. The Applicant prized its commitment to the Licensing Objectives and liaison with the authorities and, if there ever were issues, there were well resourced systems in place to handle any issues speedily and effectively. In conclusion, Mr Kolvin respectfully asked that the Sub Committee approve the application.

In response to Member’s questions, Mr Kolvin provided the following information.

- a) The Applicant did not operate any premises in Westminster, the nearest premises being in Tottenham Court Road and in Camden.
- b) Mr Jenkins visited nine premises operated by the Applicant.
- c) The Bingo industry had developed the use of handheld tablet devices that could perform all the functions of a traditional game of bingo and allowed customers to continue to play as they moved around the premises. In addition, customers had the opportunity to play gaming machines. Referring to a plan of the premises, Mr Kolvin identified the location of the seated gaming machines (70) and where the bingo machines (20) were located on a rack for use by customers. Mr Kolvin described how the bingo machines, which had Category C and D content, operated, and the games that were available. Regarding the gaming machines, 18 were Category B32 gaming machines, which constituted 20% of the total number of playable machines in the premises.
- d) The tablets permitted a variety of Category C and D games to be played, but not Category B games. It was not possible to play bingo on the gaming machines, but customers could play Category B3, C and D games and only 18 allowed Category B3 (Adult) games to be played.
- e) The Applicant had looked at the sensitivities of the location including the types of premises that were there and the residential population and had analysed the crime data. In response, the Applicant had offered a staffing condition that went beyond the staffing provision in many of its other premises, Condition 7. In addition, there was a magnetic door locking system (Maglock) and each Member of Staff had a fob allowing them to instantly contact StaffGuard (Conflict Management System),

if necessary. No SIA conditions had been attached to any of the Applicant's premises licences. However, should anything untoward happen, the Applicant would employ SIA registered supervisors until such time as the issue had been resolved. Mr Kolvin stated that none of the Applicant's premises had ever been subject to review of its licence, the reason being that the Applicant would not allow anything that might put its staff or customers in danger. A combination of risk assessments, discussions with the Police and proposed conditions had all formed part of the present application.

- f) Regarding opening hours, the mandatory and default conditions were framed in such a way that the default hours for bingo were 09:00 hours to 00:00 hours and these hours could be varied. There were no default hours for gaming machines and if hours were not specified, the Applicant could allow customers to play gaming machines for 24 hours a day. The Applicant had sought to extend the hours for bingo from 7 AM to 1 AM or 2 AM depending on whether it was Sunday to Thursday or Friday to Saturday. The test for restricting hours was "necessity" rather than appropriateness or proportionality. If the Sub Committee did feel there was a need to restrict the hours, the Applicant had offered, in the skeleton argument, overall opening hours of 7 AM to 2 AM.
- g) Regarding staff training in relation to vulnerable people, it was noted that it was not possible to identify persons who might be problem gamblers or otherwise vulnerable by looking at them. Therefore, staff were provided with accredited training in observing customer behaviour and to look for indicators that might suggest vulnerability. If a Member of Staff identified a customer who may have a gambling problem, that Member of Staff would engage with the customer to ask if they wished to review their gambling. Other measures in place to protect vulnerable persons included independent field audits that were carried out on the Applicant's premises three times a year, and which included checks on what premises were doing to protect vulnerable people, and the knowledge and understanding of Members of Staff to determine if there was any requirement for training. The Applicant was also engaged with two gambling charities: YGAM, an educational charity to safeguard young people against problematic gaming and gambling; and Betknowmore, a gambling support service addressing problematic issues caused by gambling. In addition, the Applicant donated to gambling charities.
- h) Regarding local engagement and engagement with the Business Improvement District (BID), the Applicant was engaged with the Police and the Licensing Authority. If the licence was granted, the Applicant would routinely seek the guidance of the Licensing Authority in liaising with local organisations and, insofar as those organisations provided assistance and care, the Applicant would liaise directly with those organisations. In addition, as there was a six-week induction period before a premises opened, local organisations would be invited to participate in the training process and to impart local knowledge and information.
- i) Regarding the Edgware Road Cumulative Impact Area, the Applicant had carried out a detailed Local Area Risk Assessment which was at Page 70 of Additional Information Pack 1. The assessment had considered crime rates in both the immediate area and the wider area and the application had been discussed in detail with PC Bryan Lewis. [Mr Kolvin then detailed the discussions that had taken place with PC Lewis and the proposed conditions that had resulted from that

discussion and from consultation with the Council's advisers on Crime and Disorder].

- j) The inside of the premises would not be visible from the street. CCTV cameras would monitor activity outside the premises which was next to a McDonald's store where a lot of young people gathered as well as vulnerable young men of differing ethnicities. The front of the premises would display socially responsible messaging and signs would be clearly displayed stating that no one under 18 was permitted, under any circumstances, to enter the premises; that CCTV was in operation; that alcohol could not be brought into the premises; and that smoking was not permitted. Mr Kolvin stated that the Applicant was aware of the juxtaposition with the McDonald's premises next door. The premises would not be enticing to young people given its low-key interior; uniformed staff walking round the premises; and there being no opportunity to gather socially. However, should there be an issue of young people entering the premises, the Applicant would immediately address this concern.
- k) The different character of Betting Shops, Adult Gaming Centres (AGCs) and Bingo Premises meant that people were more likely to smoke outside betting shops. The very low number of customers in bingo premises at any one time, and the amount of time they spent there, meant that there was very little reason to stand outside the premises to smoke. Also, people who tended to gather on the street did not do so outside bingo premises.
- l) Regarding measures to prevent money-laundering, high specification technology in the gaming machines monitored the amount and frequency of transactions and alerted staff to suspect transactions or behaviour. To make the business profitable, it required a steady flow of customers over the course of a long period in any one day.
- m) Members of Staff would deal humanely with any homeless people they encountered, but homeless people would not be permitted to enter or remain on the premises or use the machines. Furthermore, homeless people were generally aware of the premises where they would not be given entry. Regarding those persons who were intentionally homeless and who had refused accommodation, Mr Kolvin acknowledged that homelessness was a complex matter and that the Applicant analysed each local area and was experienced in managing these types of social issue.

Ms Steward appearing on behalf of the Licensing Authority addressed the Sub Committee. She stated that the Licensing Authority had made representations in line with the Council's Policy BGO1(Bingo) which stated that applications and reviews would be determined subject to the relevant criteria in Policies OBJ1 to OBJ3, and other policies, including Policy LOC1 (Location Policy), within the Statement of Licensing Principles for Gambling.

Referring to Policy LOC1, which stated that – *“The sensitive location is defined as any premises which is within close proximity or on a main route to a school, educational institution, hostel or other sensitive locations where there is the potential for exposing children, young people or other vulnerable persons to gambling”*; Ms Steward noted that the proposed location of this new bingo venue must be considered as part of the application due to the local area profile and its potential to impact upon the promotion

of the gambling objectives. Specifically, Ms Steward referred to the mix of venues on Edgware Road, including retail, restaurants, pubs and a casino.

Ms Steward then referred the Sub Committee to Policy OBJ1, as set out in her representation, which stated that – *“To prevent gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime, the Licensing Authority will apply the following criteria and take into account the following considerations where relevant in determining applications”* [The representation then listed the criteria and considerations].

In response to these policy considerations and questions posed in the Licensing Authority’s representations, the Applicant had proposed a condition regarding staffing levels and had agreed several conditions with the Police. The Applicant had also provided further plans to show the location of the premises’ CCTV cameras.

Regarding Policy OBJ2, which requires that gambling must be conducted in a fair and open way, the Applicant had submitted additional information including operating procedures, training manuals and signage.

Referring to Policy OBJ3, which addressed protecting children and other vulnerable persons from harm or exploitation by gambling, Ms Steward noted that the definition of vulnerable persons included persons who gambled more than they wanted to gamble; people gambling beyond their means; and people who could not make informed decisions about their gambling due to mental impairment and/or the effect of alcohol and/or drugs.

In response to questions set out in the Licensing Authority’s representation about the definition of vulnerable persons, the Applicant had provided a definition that was in line with Westminster City Council’s policy. The Applicant had also submitted staff training guides in relation to vulnerable persons, self-exclusion forms, and contact details for local services and GAMCARE.

Ms Steward stated that the Sub Committee must also be satisfied that the Applicant had met all the requirements under Policy BG01 (Bingo). The Council’s “Statement of Licensing Principles for Gambling” stated that the reasons for Policy BG01 included – *“To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo can be played in any premises for which a premises licence is issued ...”* In conclusion, Ms Stewart stated that the Sub Committee must be satisfied that the Applicant had met all the requirements regarding Policy BG01. In summary, to avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance; to ensure appropriate weight was given to Policy OBJ3; to ensure that the duties of young persons aged 16 to 17 who may be employed by the premises were not connected with gaming or gaming machines; and that applications were determined subject to the relevant criteria of Policies OBJ1 to OBJ3.

In response to questions by Members, Ms Steward provided the following information. (a) It was for the Sub Committee to take into consideration the sensitivity of the location of the premises when determining the application.⁷ (b) Regarding Policy BGO1 and the reasons for that policy, including “To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance”, an application must not exceed the gaming machine allowance.

Conclusion

The Sub Committee appreciated that the Applicant had acted proactively and positively in making this application. Although the Metropolitan Police had initially made objected to the application on the basis that it would undermine the Licensing Objectives, this had been withdrawn following discussions between the applicant and the Metropolitan Police which resulted in the suggestion of further conditions.

Similarly, the Sub Committee were mindful of the fact that the applicant had addressed many of the concerns raised by the Licensing Authority's representation in their submissions.

The Sub Committee appreciated Mr Kolvin's summary of the approach to be taken under s. 153 of the Gambling Act 2005 in paragraphs 25 – 26 of his skeleton argument, which provided that:

25. *As the Sub-Committee will be aware, each piece of licensing legislation sets out a different approach to the question of grant. The approach relevant to gambling is in section 153 of the Gambling Act 2005:*

"In exercising their functions under this Part, a licensing authority shall aim to permit the use of premises for gambling insofar as the authority thinks it:

(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))."

26. *The following points should be noted:*

a. The test is mandatory: "a licensing authority shall..."

b. The obligation to "aim to permit" where (a) – (d) are satisfied is described by the Gambling Commission in its guidance as "the licensing authority's primary obligation" (AIP1/136).

c. The "aim to permit" is explained in the leading textbook Paterson's12 (AIP1/137):

"... It creates a presumption in favour of granting the premises licence since it is only if the licence is granted that the premises may lawfully be used for gambling. But the duty seems to go further than that. The verb 'to aim' is defined by the OED as meaning 'To calculate one's course with a view to arrive (at a point); to direct one's course, to make one's object to attain. Hence to have it as an object, to endeavour earnestly...' A person who 'aims' to achieve a result will usually take active steps to bring it about. The provision appears to place a duty upon the licensing authority to exercise their powers so far as is lawfully possible to achieve a position in which they can grant the premises licence and thus permit the premises to be used for gambling."

As the Gambling Commission Guidance says: "Licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through use of conditions" (AIP1/135).

- d. *Conditions should only be added where it is necessary to do so, and even then, such conditions need to be proportionate to the circumstances requiring a response, relevant, directly related, fair and reasonable (AIP1/137).*
- e. *As the Guidance states: “Any refusal should be for reasons which demonstrate that the licensing objectives will not or are unlikely to be met” (AIP1/135). That means demonstrate by evidence.*
- f. *Conversely, the following considerations are legally irrelevant to the determination of an application for a premises licence:*
 - i. *A dislike of gambling (AIP1/135).*
 - ii. *A general notion that it is undesirable to allow gambling premises in an area (AIP1/135).*
 - iii. *Moral or ethical objections to gambling (AIP1/135).*
 - iv. *The demand for gambling premises (see section 153 Gambling Act 2005). As such, objections which state that there are enough gambling establishments in a locality may be relevant to planning, but they are irrelevant to licensing.*
 - v. *Planning considerations (see section 210 Gambling Act 2005).*
 - vi. *Nuisance (see Guidance by Gambling Commission, AIP1/131).*

The Sub Committee were mindful of this effective “presumption” in favour of granting the premises licence insofar as it can be properly regarded, noting the express provisions of s. 153.

The Sub Committee considered that the licence, with conditions, complied with the relevant commission guidance, noting that the guidance states that authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions. If the authority does decide that the only way to address a particular concern is through conditions it must be proportionate to the circumstances which they are seeking to address.

The Sub Committee were mindful that Policy OBJ1 required consideration of whether the premises will contribute towards crime and disorder in the area and whether the applicant has demonstrated that they had, or intended to, implement sufficient controls to prevent gambling from being a source of and / or associated with crime and disorder. In this instance, having regard to paragraph 10.1.5 of the Statement of Gambling Principles, the Sub Committee concluded that, as a result of the significant levels of crime late at night on Edgware Road, including money-laundering, as evidenced by the numerous conditions agreed between the Police and the applicant, the Sub Committee was of the view that it was necessary to restrict the hours of operation if the application was to meet the following Licensing Objective: “To prevent gambling being a source of, or associated with, crime and disorder”.

Of further relevance to the opening hours in the view of the Sub Committee was Policy OBJ3. Applying the criteria for policy OBJ3, set out at Paragraph 12.1 of the Council’s Statement of Gambling Principles: “Whether there are appropriate measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling” and the relevant consideration set out at Paragraph 12.1.4 of the Statement of Gambling Principles: “Whether sufficient management measures are proposed or

are in place to protect children and other vulnerable persons from being harmed or exploited by gambling”; the Sub Committee was of the view that, if the application was to promote the following licensing objective – “To protect children and other vulnerable persons from being harmed or exploited by gambling”; it was necessary that the hours of operation be restricted to the hours that Mr Kolvin had suggested in his skeleton argument and that the Applicant would be prepared to consider i.e., 07:00 hours to 02:00 hours

Accordingly, the Sub Committee considered that, although they had concerns about the large number of gaming machines proposed for the premises, under the requirements of the Gambling Act 2005, and in accordance with the Gambling Commission’s “Licence Conditions and Codes of Practice”, it was correct to approve the application, subject to a restriction of the hours that the premises were authorised to operate and the added conditions, as agreed by the Applicant with the Metropolitan Police Service.

In reaching its decision, the Sub Committee noted that the default hours set by Parliament for bingo premises were:

- Bingo: 09:00 hours to 00:00 hours
- Gaming Machines: 24 hours

The Applicant had sought to change the default hours for bingo to:

- Sunday to Thursday: 07:00 hours to 01:00 hours
- Friday & Saturday: 07:00 hours to 02:00 hours.

The Sub Committee concluded that the conditions it has imposed on the Premises Licence would mitigate the concerns of all those that had objected and would therefore help to aim and permit the licensing objectives as indicated above.

Having carefully considered the committee papers and the submissions made by all of the parties, both orally and in writing, **the Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives: -

1. To grant permission for **a Bingo Premises Licence authorising the Premises to be used for the provision of facilities for the playing of Bingo and other gaming machine use, as permitted under the Act Sunday to Thursday 07:00 to 01:00 hours and Friday to Saturday 07:00 to 02:00 hours.**
2. To grant permission for the Hours the Premises are Open to the Public **Monday to Sunday 07:00 to 02:00 hours.**
3. That the Licence is subject to any relevant mandatory and default conditions.
4. That the Licence is subject to the following additional conditions imposed by the Committee which are considered appropriate and proportionate to comply with Section 153 of the Act. It is the Committee’s view that the Conditions imposed on the Licence and the various established policies and procedures in place by the Applicant and provided to the Committee in advance of the hearing, to include the promotion of responsible gambling and its day-to-day management of the running of the Premises would mitigate the concerns raised by the Licensing Authority in addition to the high level of regulation the Premises is already subjected to by the Gambling Commission.

CONDITIONS IMPOSED BY THE COMMITTEE AFTER A HEARING

5. A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.
6. No customer shall be able to enter the premises directly from any other premises in respect of which one of the following permissions has effect -
 - (a) a casino premises licence;
 - (b) an adult gaming centre premises licence; and
 - (c) a betting premises licence other than a track premises licence.
7.
 - (1) This paragraph shall apply where children or young persons or both are permitted by the licence holder to enter the premises, and Category B or C gaming machines are made available for use on the premises.
 - (2) Any area of the premises to which category B and C gaming machines are located—
 - (a) shall be separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for the purpose;
 - (b) shall be supervised at all times to ensure children or young persons or both do not enter the area; and
 - (c) shall be arranged in such a way that ensures all parts of the area can be observed by the persons mentioned in sub-paragraph (3).
 - (3) The reference to supervision in this paragraph means supervision by -
 - (a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or
 - (b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.
 - (4) A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category B or C gaming machines are made available for use.
8.
 - (1) In the case of a charge for admission to the premises, a notice of that charge shall be displayed in a prominent place at the principal entrance to the premises.
 - (2) In the case of any other charges in respect of gaming, a notice setting out the information in sub-paragraph (3) shall be displayed at the main point where payment for the charge is to be made.
 - (3) The notice in sub-paragraph (2) shall include the following information—
 - (a) the cost (in money) of each game card (or set of game cards) payable by an individual in respect of a game of bingo;
 - (b) in respect of each game card (or set of game cards) referred to in paragraph (a) the amount that will be charged by way of a

- participation fee for entitlement to participate in that game; and
- (c) a statement to the effect that all or part of the participation fee may be waived at the discretion of the person charging it.
- (4) The notice may be displayed in electronic form.
 - (5) A reference in this paragraph to a charge in respect of gaming does not include an amount paid for an opportunity to win one or more prizes in gaming to which section 288 of the 2005 Act (meaning of “prize gaming”) applies.
9. (1) The rules of each type of game that is available to be played the premises other than games played on gaming machines shall be made available to customers within the premises.
- (2) The condition in sub-paragraph (1) may be satisfied by—
- (a) displaying a sign setting out the rules,
 - (b) making available leaflets or other written material containing the rules, or
 - (c) running an audio-visual guide to the rules prior to any bingo game being commenced.
10. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

DEFAULT CONDITIONS ATTACHING TO A BINGO PREMISES LICENCES

11. Subject to paragraph 2, no facilities for gambling shall be provided on the premises between the hours of midnight and 9am.

As per the Applicant’s request this condition has been disapplied

12. The condition in paragraph 1 shall not apply to making gaming machines available for use.
13. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance. 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 throughout the entire 31-day period.
14. A staff member from the premises who is conversant with the operation of the CCTV system shall be on 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.

15. Notices shall be prominently displayed within the premises stating that CCTV is in operation.
16. 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
 - i. any faults with the CCTV system
17. 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.
18. Signage advertising the aforementioned proof of age scheme shall be prominently displayed throughout the premises.
19. There shall be no pre-planned single staffing at the premises from 12:00 until closing and no single staffing from 20:00 until closing.
20. There shall be a fully operational magnetic door locking system (Maglock) available for staff use at all times.
21. If trading past midnight the Maglock will always be in use.
22. Individuals who are deemed to be under the influence of excessive alcohol or drugs shall be refused entry to the premises.
23. The licensee shall participate in local Betwatch or similar scheme, where available, to promote knowledge sharing within the local industry, with particular regard to local risk but also to promote best practice.
24. The licensee shall take reasonable steps to prevent nuisance directly outside of the Premises.
25. Notices will be prominently displayed in the premises requesting customers to leave quietly and respect the residential nature of the area.
26. Clear and legible notices must be prominently displayed at any area used for smoking requesting customers to respect the needs of local residents and use the area quietly.
27. The appropriate staffing levels will be assessed by way of risk assessment and cognisance will be taken of any Police advice.

28. Third party testing on age restricted sales systems shall be carried out on the premises at least 3 times a year and the results shall be provided to the Licensing Authority upon request.
29. There shall be an external camera at the premises that shall have sufficient coverage of the premises frontage which will provide live images to staff in the service counter area.
30. The licensee shall not allow their logos or other promotional material to appear on any commercial merchandising which is designed for use by children.
31. The licensee will ensure through regular checks and intervention that customers children are not left unsupervised outside of the premises.
32. A magnetic lock device commonly referred to as a Maglock will be installed and maintained on the entrance/exit to the premises which will be operational by the ground floor staff.
33. If at any time (whether before or after 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.
34. The licensee shall implement and maintain a policy of banning any customers who engage in crime, disorder or anti-social behaviour within or outside of the premises.
35. The Company's staff guard system shall be installed and maintained at the premises which allows direct communication with a central monitoring station permitting audio and CCTV communication.
36. The licensee will ensure that customers toilets are checked hourly for evidence of drug taking and a log/record kept for immediate inspection by the Police or Licensing Authority.
37. The licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in the training shall be formally recorded and the records produced to the Police or Licensing Authority upon request.

If problems are experienced, then an application for a review of the Premises licence can be made.

This is the Full Decision of the Licensing Sub Committee which takes effect forthwith.

**The Licensing Sub-Committee
10 December 2020**