

**Report of the Head of Elections, Licensing and Registration**

**Report to the Licensing Sub Committee**

**Date:** Tuesday 9<sup>th</sup> August 2016

**Subject:** Application for a variation of a casino premises licence under the Gambling Act 2005 for Grosvenor Casino, Westgate Bridge, Leeds, LS3 1LW

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): <b>City and Holbeck</b>		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

**Summary of Main Issues**

This is an application for a variation of a casino premise licence for premises at Wellington Bridge Leeds LS3 1LW.

**1.0 Purpose of the Report**

- 1.1 To advise Members of an application made under Section 187 of the Gambling Act 2005 (the Act) for the variation of a casino premises licence in respect of the above mentioned premises.
- 1.2 Members are required to consider this application due to the receipt of representation from the Licensing Authority in their capacity as a responsible authority.

**2.0 Background History**

- 2.1 The premises have been licensed as a casino under the Gambling Act 1968 and were converted to a Gambling Act 2005 premises licence in 2005.
- 2.2 Grosvenor also hold two casino premises licences for their site at Merrion Way with one casino (an electric casino) at ground floor, and the second casino sited on the 1<sup>st</sup> floor, separated by a lobby and staircase.

2.3 Both the Merrion Way licences were granted under the Gambling Act 1968. The Gambling Act 2005 ('the Act') does not allow for any new casino premises licences other than the small and large casino licences that were awarded through a two stage process by 16 Authorities. However the owners of licences granted under the Gambling Act 1968 and converted to premises licences under the Gambling Act 2005 are permitted to move their licences to new sites within the same authority's area by way of a variation application.

### **3.0 The Application**

3.1 The variation application has been made by Grosvenor Casino (GC) Limited, Statesman House, Safferton Way, Maidenhead, Berks SL61AY.

3.2 This variation application is made under the Act to remove the electric casino from Podium Building, Merrion Way, Leeds LS2 8BT to Grosvenor Casino, Wellington Bridge, Leeds LS3 1LW.

3.3 The proposals are to site casino 1 at ground floor, and casino 2, the electric casino, on the 1<sup>st</sup> floor.

3.4 A copy of the application and plans may be found at **Appendix 1**, together with computer generated visuals. Color copies of these documents will be provided at the meeting for member's assistance.

3.5 A map which identifies the location of these premises is attached at **Appendix 2**.

3.6 The Act requires notice of the application to be served on the responsible authorities, advertised in a local newspaper and displayed on the premises where it can be conveniently be read by members of the public from the exterior of the premises for a period of no less than 28 consecutive days.

### **4.0 Matters for consideration**

4.1 In considering an application for a premises licence the authority shall have regard to the following licensing objectives;

- a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- b) Ensuring that gambling is conducted in a fair and open way; and
- c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

4.2 Members are referred to the Gambling Commissions Guidance to Licensing Authorities 5<sup>th</sup> Edition, and in particular the following paragraphs:

7.7 The Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.

- 7.8 The Act recognises that different configurations may be appropriate under different circumstances but the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence – with the machine entitlements that brings – and are not an artificially created part of what is readily identifiable a single premises.
- 7.22 There is no definition of ‘direct access’ in the Act or regulations, but licensing Authorities may consider that there should be an area separating the premises concerned, for example a street or café which the public go to for purposes other than gambling, for there to be no direct access.
- 7.23 a) The principal entrance to the premises must be from a ‘Street’  
b) No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.
- 7.26 Take particular care in considering applications for multiple licences for a building. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.

4.6 To satisfy the requirement that there should be no direct access between gambling premises, the applicants proposals include an unlicensed area at ground floor level including the staircase to the 2<sup>nd</sup> floor which would otherwise provide direct access between casino 1 and casino 2.

## **5.0 Representations**

5.1 Under the Act representations can be received from responsible authorities or interested parties.

5.2 For the purpose of this Act interested parties are a person who:

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- (b) has business interests that might be affected by the authorised activities;
- (c) represent persons in either of these two groups.

### **5.3 Representations from Responsible Authorities**

5.4 This application has attracted a representation from the Licensing Authority which is a responsible authority.

5.5 The Licensing Authority has made representation as it is not considered that the partition walls which are to be installed at a height of 1500mm, to separate the public non- gaming area from casino 1 are at an adequate height to demonstrate a clear separation of these areas and this will create an overall impression of one large premises

5.6 In addition the access to casino 1 is to be via two openings in the partition walls, and in the Licensing Authority's opinion will bring further impression of one large premises inviting people to drift from the non- gaming area in to the casino (para 7.26 of Gambling Commission Guidance).

5.7 A copy of the Licensing Authority's representation may be found at **Appendix 3**.

## **6.0 Principles to be applied**

6.1 The Act (s153) sets out that the licensing authority, in exercising their functions, 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 under section 24 of the Act (Gambling Commission Codes of Practice);
- (b) in accordance with any relevant guidance issued by the Commission under section 25 (Gambling Commission Guidance to Licensing Authorities);
- (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)); and
- (d) in accordance with the statement published by the authority under s 349 of the Act (Statement of Licensing Policy – Gambling Act 2005) (subject to paragraphs (a) to (c)).

6.2 The Gambling Commission Codes of Practice as mentioned above describes the arrangements that should be made by a person providing facilities for gambling for the purpose of-

- (a) Ensuring that gambling is conducted in a fair and open way;
- (b) Protecting children and other vulnerable persons from being harmed or exploited by gambling, and
- (c) Making assistance available to persons who are or may be affected by problems related to gambling.

The codes may also include provision about how facilities for gambling are advertised or described.

6.3 The Act (s153(2)) also sets out that in determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which are proposed.

## **7.0 Planning Permission**

7.1 Members should note that in accordance with Section 210 of the Gambling Act 2005, any decision made by the licensing authority shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating planning or building.

7.2 It should also be noted that a decision by the licensing authority under this part shall not constrain any later decision by the authority under the law in relation to planning or building.

## **8.0 Mandatory and Default Licence Conditions**

8.1 The Secretary of State provides for mandatory conditions (s167) and default conditions (s168) to be attached to specified premises licences.

8.2 The default conditions for a casino premises licence set out the opening times which are:

‘The opening hours of all casinos are noon to 6:00am’.

8.3 The mandatory conditions applicable to casino premises may be found at **Appendix 4**.

8.4 Section 169 of the Act provides for that where a licensing authority issue a premises licence they may:

- (a) attach a condition to the licence;
- (b) exclude a condition that would otherwise be attached to the licence by virtue of section 168 (default conditions).

8.5 A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence which authorises the holder to carry out the activity in respect of which the premises licence is granted.

## **9.0 Operating Licence**

9.1 A premises licence may not take effect unless the applicant is in possession of an operating licence issued by the Gambling Commission. This will be specific to the gambling activities to be carried out.

9.2 It is confirmed that the Grosvenor Casino Limited do hold the relevant operating licence.

## **10.0 Primary Gambling Activity**

10.1 The primary gambling activity of the premises should be that described, i.e. a casino premises should primarily be a place for gaming facilities.

10.2 An operating licence condition provides that gaming machines may be made available for use in casinos only on those days when sufficient facilities for playing casino games or games of equal chance are also available for use.

10.3 In this respect, when a casino exclusively offers fully automated casino games, there must be more individual player positions made available for these games than there is gaming machines made available for use.

## **11.0 Equality and Diversity/Cohesion and Integration**

11.1 At the time of writing this report there were no implications for equality and diversity. Any decision taken by the Licensing Sub-Committee will be in accordance with the Gambling Act 2005.

## **12.0 Options available to Members**

12.1 The Licensing sub-committee must take such of the following steps as it considers necessary with a view to promoting the licensing objectives and in accordance with the principles as set out at paragraph 5 of this report, and:

- Grant the application as applied for
- Grant the application and exclude any default conditions
- Grant the application with conditions provided these do not contravene s169(4) of the Act and prevent compliance of the Operating Licence, or mandatory conditions.
- Refuse the application

## **13.0 Appendices**

Appendix 1: Copy of application and plans

Appendix 2: Area map

Appendix 3: Interested Party representation

Appendix 4: Casino Premises Licence Mandatory and Default Conditions

## **14.0 Background Papers**

- Gambling Commission Guidance to Licensing Authorities 5th Edition September 2015 (section 25 of the Act)
- Leeds City Council Statement of Licensing Policy 2016-2018 – Gambling Act 2005 (section 349 of the Act)
- Gambling Act 2005