

Report of the Director of Resources

Report to Executive Board

Date: 2 November 2011

Subject: Large Casino - Approval of revised Gambling Act 2005 Statement of Licensing Policy 2010-2012

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| Are specific electoral Wards affected? If relevant, name(s) of Ward(s): | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Are there implications for equality and diversity and cohesion and integration? | <input checked="" type="checkbox"/> Yes | <input 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? If relevant, Access to Information Procedure Rule number: Appendix number: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

Summary of main issues

1. The Gambling Act 2005 provides Leeds City Council with the opportunity to grant a Large Casino Premises Licence. Over the last year officers from Entertainment Licensing and City Development have been preparing the process and related documents. This includes a new section to be inserted in the Gambling Act 2005 Statement of Licensing Policy ("the Policy") and a full application pack.
2. The council has undertaken a public consultation on the revised Policy, and the application pack. Approval of the revised Policy is a matter reserved to Full Council. Budgetary and Policy Framework requires Executive Board to consider the revised Policy, refer the matter to Scrutiny Board (Resources and Council Services) and then for the revised Policy to be further considered by Executive Board before being considered for approval by full Council.

Recommendations

3. Consider the revised Gambling Act 2005 Statement of Licensing Policy 2010-2012;
4. Consider the consultation report as the council's response to the public consultation; and,
5. Refer both documents to Scrutiny Board (Resources and Council Services) for their consideration.

1.0 Purpose of this report

- 1.1 To present the revised Gambling Act 2005 Statement of Licensing Policy which contains a statement of the principles the council will apply when making the determination of the large casino licence (background papers).
- 1.2 To present the Consultation Report (background papers) which is the proposed Council response to the public consultation on the large casino section in the Policy, and the draft application pack.

2.0 Background information

- 2.1 The Gambling Act 2005 (the Act) changed the legislation governing the licensing of casinos significantly. Under the Act seventeen new casino licences were to be granted, each of which are to be significantly larger than existing casinos. The DCMS formed a special Casino Advisory Panel (CAP) to recommend where the new casinos should be located.
- 2.2 In April 2008 Parliament approved the eight small and eight large casinos in line with the CAPs original recommendations. Leeds was awarded the right to issue a large casino licence.
- 2.3 The Act, associated regulations and a Code of Practice describe the process the council and the applicant must complete before issuing a large casino licence. This includes:
 - Updating the Statement of Licensing Policy to include a statement of the principles the council will apply when determining the casino applications.
 - Development of an application pack which describes the procedure the council proposes to follow and the principles that will be applied when determining the licence.
 - Commencement of the application process with an advertisement of the “competition” and a two stage application process:
 - Stage 1 follows the same process as for any other premises licence application under the Act.
 - Stage 2 in which the council’s Licensing Committee determines which of the competing applications would provide the greatest benefit to the area.
- 2.4 The approval of the revised Policy is a matter reserved for full Council and follows the Budgetary and Policy Framework.
- 2.5 The approval of the application pack is a matter for the Licensing Committee. The draft application pack is available as background papers.
- 2.6 Providing the policy receives approval by Council and the application pack approval by Licensing Committee in January, it is intended that Stage 1 of the competition will commence in February and complete at the end of June 2012. If there are no appeals, Stage 2 will commence at the end of July and it is planned to complete the process and grant the licence within the 2012/13 financial year.

3.0 Main issues

- 3.1 The legislation requires that councils develop a statement of the principles that the licensing authority proposes to apply in making any determination at Stage 2 of the process. These principles have been developed in line with the direction received from Executive Board (3rd March 2010, minutes: <http://democracy.leeds.gov.uk/mgConvert2PDF.aspx?ID=4290&T=1>) and centre on the three main principles of:

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| Economic | To secure a positive and significant economic impact for the local economy through the provision of a Large Casino in Leeds |
| Financial | To seek to maximise the financial return to the Council, and |
| Social | To use any financial return accrued to facilitate the delivery of programmes and projects that support the Council's Narrowing the Gap agenda, for the benefit of the Leeds area. |

- 3.2 These principles underpin the revisions to the Policy and in turn inform the structure of the application process, including the evaluation of the applications. The new section has been consulted upon with the public, the industry, interest groups, faith groups and ward members. The consultation lasted for twelve weeks and ended on 29th July 2011. More details are provided at section 4.1.
- 3.3 Alongside this the council undertook a non-statutory four week consultation on the application pack. Many of the respondents to the policy consultation also commented on the content of the application pack, and the Consultation Report combines the responses to both consultations.
- 3.4 **Consultation Responses**
- 3.5 The council received 14 responses to the consultation on the large casino section of the Gambling Act 2005 Statement of Licensing Policy and the application pack.
- 3.6 All the responses to the consultation were carefully considered. The section in the Policy relating to social impact was amended to clarify the council's position on the mitigation of social impact and a section in the Evaluation Methodology (which forms part of the application pack) was amended to specifically include health impact assessments.
- 3.7 **Debt**
- 3.8 Two respondents described the links between casinos and problem gambling and suggested there were better ways of improving local economy than by providing a casino.
- 3.9 The consultation on the policy considered the principles that will be used to determine how the licence will be granted rather than to determine if Leeds should grant a casino licence. Notwithstanding this, the Council has the powers to pass a no casino resolution if the benefits do not meet the aspirations for the local area.

- 3.10 At Stage 2 of the application process each applicant will be required to undertake a detailed equality and health impact assessment to detail the impact of their proposals and to outline a comprehensive mitigation strategy for any negative effects caused by the casino. The mitigation measures will form part of a contractual arrangement, incurring a penalty should those commitments not be met.
- 3.11 The Social Inclusion Fund - funded as a consequence of the casino - will also help deliver projects that help mitigate the affects of gambling and financial, economic and social exclusion.
- 3.12 Amendments were made to the Policy to strengthen the commitment to mitigating negative effects.
- 3.13 **Locality to regeneration area/location of casino**
- 3.14 A number of respondents were concerned that the Large Casino may be situated in or close to a regeneration area and that this should not be seen as good for that area or a social good.
- 3.15 All applications must pass through Stage 1 of the application process. This stage follows the same regulatory checks that every gambling licence application goes through. Along with other checks, the application is evaluated against the licensing objectives, which are:
- w Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - w Ensuring that gambling is conducted in a fair and open way.
 - w Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 3.16 At Stage 2 of the application process all applicants will be required to provide a detailed social and health impact assessment, along with mitigation for their proposals. This must include a comprehensive evaluation of the location of the proposed venue. This will be evaluated alongside other criteria.
- 3.17 The Council will not have a preference for a large casino location. In the modern casino market, it is not expected that large casino applications will be placed in housing areas.
- 3.18 The Policy was amended to strengthen the commitment to mitigating negative effects.
- 3.19 **Economic benefits**
- 3.20 The response from the Diocese of Ripon and Leeds commented specifically that applicants should be required to demonstrate the local economic benefits as well as those for the whole city.
- 3.21 When determining which application should be granted the licence, the council must judge which application, if granted would provide the greatest benefit to the local

authority area. This is the test prescribed in the legislation and underpins the evaluation process. During Stage 2, each application will be evaluated against a set criteria which has been developed to test the benefit to the area, not just the area directly impacted by the location of the casino. However applicants will be expected to outline their vision and strategy for the development, which includes strategies for maximising jobs for those living in areas nearby to the casino. Raising the amount of local benefits (e.g. benefits from those nearby to the site) will be encouraged and monitored.

3.22 **Social costs and Health Impacts**

- 3.23 There was general concern that the council has concentrated on the benefits of a casino, and that there is not enough emphasis placed on potential harm, and ways of mitigating that harm.
- 3.24 A number of respondents commented that the licence should be awarded on the basis of demonstrating how the negative impacts of a casino would be mitigated as well as demonstrating the intended benefits.
- 3.25 There were comments that the Social Inclusion Fund (funded by the casino operator) should indicate that this will be used to mitigate the social costs.
- 3.26 NHS Leeds specifically raised the concern that the policy does not acknowledge the potential negative impact that a large casino development could have. Their comprehensive response describes the potential health impacts associated with gambling, problem gambling and casinos.
- 3.27 The licensing process is undertaken in two stages. Stage 1 is the same regulatory process undertaken by all premises licence applicants. Stage 2, as dictated by legislation, is an assessment of which application would, if granted, provide the greatest benefit to the local authority area. Therefore, the Statement of Licensing Policy and Stage 2 Application Pack have been developed to evaluate the benefits that will arise from the casino process rather than look at the mitigation of harm.
- 3.28 However, the Stage 2 evaluation considers negative effects in a number of ways:
- w Applicants must provide a comprehensive equality and health impact assessment and provide mitigation. Contractual commitments will be sought on mitigation measures. The commitment to mitigation is present throughout the evaluation.
 - w The social inclusion fund will help mitigate negative affects generally and is worth 33% of the overall evaluation scoring.
- 3.29 During the stage 2 evaluation process, a number of criteria are considered including:
- w health impacts
 - w strategies and safeguards to negative impacts.
 - w employment and skills strategies
 - w details on how the most disadvantaged could benefit from their proposal

w job ring-fencing proposals

- 3.30 These are considered under the socio-economic criteria, whilst commitments on mitigation are required in the schedule 9 agreement (risk and deliverability). Contractual commitments will be sought to ensure that any strategies promised by applicants are delivered.
- 3.31 The large casino licence operator will fund a Social Inclusion Fund which will support projects that help the financial and economic inclusion agenda (which will include work on health). It is anticipated that some aspects of the Social Inclusion Fund will be used to mitigate social costs brought about by the casino, above and beyond the commitments from operators and may be used to fund such activities away from the boundary of the casino..
- 3.32 In addition, the social impact of the casino will be monitored through research using a toolkit developed by leading academics. This will be used to ensure the impact of the casino on the local area will be closely scrutinised independently of the licensed operator. The council is already working on this with leading academics and the other 15 authorities who will grant new casino licences.
- 3.33 Before a premises licence can be granted, which is required before the casino can open, the operators must have an operating licence - a highly regulated licence that requires commitments to mitigating negative effects. More information on the requirements of an operators licence can be obtained from www.gamblingcommission.gov.uk.
- 3.34 The policy was amended to include the following additional paragraph:
- The applicants must demonstrate a firm commitment to mitigation of negative impacts and ensuring residents' safety and health is not put at risk by the large casino. In particular, attention should be focussed on mitigation for the most vulnerable in society and for those living closest to the proposed casino and applicants must ensure that problem gambling issues do not increase in the Leeds area. Applicants must provide an assessment of the social, equality and health impacts of their proposed casino developments and provide mitigation plans to minimise and eliminate negative impacts. Applicants should also commit to supporting the ongoing monitoring of negative social, equality and health impacts of the large casino and make contractual commitments in the schedule 9 agreement on all mitigation measures proposed.*
- 3.35 In addition officers from City Development met with NHS Leeds to discuss their specific concerns relating to the issuing of a large casino licence and as a result of that meeting it is hoped that NHS Leeds will be able to provide expert advice on health mitigation during the evaluation process.
- 3.36 **Trade response**
- 3.37 The council received a comprehensive response to both the policy and the application pack from Joelson Wilson who represent Rank Organisation. Only the parts of their letter relevant to the policy are discussed below.

- 3.38 Joelson Wilson, on behalf of Rank, commented on the section in the policy which relates to the right to make a no casino resolution. They queried the circumstances under which a no casino resolution could be used to stop the process should applications be received which do not meet the aspirations for the benefit to the Leeds area.
- 3.39 The ability to pass a 'no casino' resolution is a general power within the statute and not dependent upon the provisions of schedule 9, upon the council having the ability to licence a casino at all or upon starting a licensing process pursuant to that ability under part 8 or schedule 9. It follows that the council retains the right to pass a 'no casino' resolution at any stage of the process.
- 3.40 Joelson Wilson commented on the timing of the initial payment to the Social Inclusion fund and suggested this should be at the conclusion to Stage 2, once the licence is granted, rather than on signing of the legal agreement.
- 3.41 It is the intention for the payment to be received upon the schedule 9 being signed regardless of whether it is a provisional or full premises licence. The up front payment is non-refundable and is a one off payment made upon the end of the process and once the schedule 9 is signed - whether giving effect to the provisional statement or premises licence. No other up front payment will be considered in the evaluation. It is for the applicant to determine if they want to offer the benefit sought or not.
- 3.42 If the development does not arise, the council requires that the provisional licence holder must provide payments for non-delivery and the applicant will not be refunded for any upfront payment. It is a commercial risk applicants must consider. The council needs commitment to deliver any development within 5 years in all instances, along with payments for non-delivery.
- 3.43 Net economic impact will score 14% in the evaluation and a new development has a good chance of scoring higher marks due to the economic impacts from the construction.
- 3.44 Joelson Wilson asked for clarification as to the distinction the Council seeks to make between "contractual obligations" as opposed to "merely damages for non-delivery".
- 3.45 A contractual commitment is required to secure benefits for the local area in the schedule 9 agreement. Payments are required for non-delivery of said benefits. An application that commits to both will score more highly. This is made clear in the application pack.
- 3.46 However, paragraph 16.52 in the policy was amended to make this clear.
- 3.47 Joelson Wilson sought clarification on paragraph 16.53 which talks about the scoring of the wider development. They wanted clarity on whether this would favour existing sites.

- 3.48 The respondent infers that development sites would be less favoured than existing sites. However this is not the case. The evaluation methodology was specifically developed to ensure that no particular type of development, would be favoured more highly than another.
- 3.49 The paragraph in the policy that relates to this was amended to provide clarification.
- 3.50 The full Consultation Report is provided as background papers and is available from the author of the report. The Consultation Report and the revised Statement of Licensing Policy have been circulated to the Executive Board.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The large casino section of the Policy underwent a public consultation which ran from 9th May to 29th July 2011. The consultation was advertised through Talking Point and with posters placed in public spaces such as libraries, one stop shops and leisure centres. A press release was produced, and the consultation was advertised on the council's website.
- 4.1.2 The consultation was advertised by letter directly to 457 people and organisations including:

Organisations which represent the general public

- w Elected Members, Members of Parliament
- w Parish and Town Councils, Citizen Advice Bureaux

Partner Agencies

- w West Yorkshire Police and British Transport Police
- w West Yorkshire Fire and Rescue Service
- w West Yorkshire Trading Standards Service
- w Health and Safety Executive
- w HM Revenue and Customs and The Border Agency
- w LCC Development Department and Environmental Health Services
- w Local Safeguarding Children Board
- w NHS Leeds

Special interest groups

- w Individual members of the public who had expressed an interest during the development of the revised Policy
- w Special interest groups, specifically gambling addiction services
- w Support organisations such as Alcoholics Anonymous, Victim Support, The Samaritans, Alcohol and Drugs Service
- w Faith groups

Organisations which represent businesses in Leeds

- w Business support organisations such as Federation of Small Businesses
- w Businesses currently operating as gambling establishments

- w Licensing Solicitors who had expressed an interest during the development of the revised Policy, or who are known to represent gambling establishments.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The Gambling Act 2005 has three 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.

4.2.2 The licensing authority, in exercising their functions under the Act, shall aim to permit the use of premises for gambling in so far as it thinks its reasonably consistent with the licensing objectives.

4.2.3 Therefore the council has produced the revised Policy with this in mind and has taken special consideration of the protection of children and vulnerable people.

4.3 Council Policies and City Priorities

4.3.1 The revised Policy sets out the principles the council will use to exercise its functions under the Gambling Act 2005. Applicants for the large casino are expected to read the Policy before making their application and the council will refer to the Policy when making its decisions.

4.3.2 The licensing regime contributes to the following aims:

By 2030, Leeds will be fair, open and welcoming

- Local people have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

By 2030, Leeds' economy will be prosperous and sustainable

- Opportunities to work with secure, flexible employment and good wages

By 2030, all Leeds' communities will be successful

- Communities are safe and people feel safe

4.3.3 The licensing regime contributes to the following city priorities:

Best city... for communities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and Value for Money

- 4.4.1 Legal Services has provided advice at each stage of the policy development. They have also provided advice during the composition of the consultation report and the development of the application pack.
- 4.4.2 The large casino provides the council with the opportunity to secure benefits for the city. Although the development of the revised Policy and application pack, as well as the upcoming application process has had a cost associated with it, the project is being delivered within the budget approved at Executive Board on 3rd March 2010.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The development of a Policy under the Gambling Act 2005 is a matter for full Council and follows the Budgetary and Policy Framework which requires that Executive Board refers this matter to Scrutiny Board (Resources and Council Services) and then for it to be further considered by Executive Board before being recommended to full Council for approval. As such this report is exempt from call in by Scrutiny.
- 4.5.2 The revised Policy and the associated documents (i.e. the application pack and the consultation document), have received internal legal assurance from Legal Services and external legal assurance from Counsel.
- 4.5.3 The only recourse for applicants is appeal to the Magistrates Court at the end of Stage 1 and Judicial Review of the decision made at the end of Stage 2. Therefore, the revised Policy, application pack, public consultation and the consultation report have been developed with transparency and fairness as a prime consideration.

4.6 Risk Management

- 4.6.1 Executive Board has the option of not referring the revised Policy to Scrutiny Board at this time, and requesting that further work is undertaken. This would impact on the project timescales and may incur additional costs for the council.

5 Conclusions

- 5.1 A revised Gambling Act 2005 Statement of Licensing Policy has been developed to include a section on the large casino in accordance with the DCMS Code of Practice and the Gambling Act 2005. The revised Policy describes the principles the council will use when determining a large casino licence, particularly at stage two of the process where the test is which application would provide the greatest benefit to the city. The council has consulted with the public in accordance with the legislation and HM Government Code of Practice on Consultations. The responses to the consultation, plus suggested amendments are attached in the Consultation Report.
- 5.2 The revised Policy is now following the Budgetary and Policy Framework. The next step is for Executive Board to refer the matter to Scrutiny Board before receiving it back for further consideration before recommending approval to full Council.

6 Recommendations

- 6.1 That Executive Board members are asked to:
- Consider the revised Gambling Act 2005 Statement of Licensing Policy 2010-2012;
 - Consider the consultation report as the council's response to the public consultation; and,
 - Refer both documents to Scrutiny Board (Resources and Council Services) for their consideration.

7 Background documents (available from the report author)

- 7.1 Revised Gambling Act 2005 Statement of Licensing Policy 2010-2012
- 7.2 Consultation Report - Large Casino Section - Gambling Act 2005 Statement of Licensing Policy
- 7.3 Gambling Act 2005 Statement of Licensing Policy 2010-2012 (as currently published)
- 7.4 Insert into the Gambling Act 2005 Statement of Licensing Policy - This report accompanied the public consultation. It explains the background to the legislation, and how the draft policy was developed.
- 7.5 Equality, Diversity, Community Cohesion Impact Screening (October 2011)
- 7.6 Draft Application Pack