

LEEDS CITY COUNCIL

LICENSING SUB-COMMITTEE

17th NOVEMBER 2020

APPLICATION FOR BINGO PREMISES LICENCE

CASHINO GAMING LIMITED

377 - 379 HAREHILLS LANE, LEEDS LS9 6AP

SKELETON ARGUMENT ON BEHALF OF APPLICANT

INTRODUCTION

1. This is an application by Cashino Gaming Limited (“the applicant”) for a new bingo premises licence.
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, explaining the legal context under the Gambling Act 2005 and addressing the representations which have been made.
3. In considering the application, the Sub-Committee may be particularly assisted by looking at the following documents:
 - Witness statements:
 - Amanda Kiernan (page 252).
 - Andy Tipple (page 266).
 - Chris Green (page 267).
 - Gill Clulow (page 268).
 - Darrell Butterworth (page 270 and page 292).
 - Updated Local Area Risk Assessment (page 307).

- Legal obligations to promote licensing objectives:
 - Gambling Commission’s Licence Conditions and Codes of Practice applicable to non-remote bingo licences (pages 169-202).
 - Mandatory and default conditions attaching to bingo premises licences (pages 459-460).
 - Proposed licence conditions for 377-379 Harehills Lane (pages 304-306).

- Operational standards:
 - Cashino Gaming Limited General Operational Standards (pages 53 - 54).
 - Compliance and Social Responsibility Manual (pages 81-183).
 - Operational Manual (extracts) (pages 184-201).

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% no higher than the lower limits recently imposed on betting offices.
7. In addition, the applicant has offered an extensive raft of individual licence conditions as mentioned above. Following a detailed local area risk assessment, and in respectful recognition of the detail and provenance of the local representations, the conditions offered would make this the most conditioned licence in Gauselmann's entire UK estate and would entail a particularly high degree of protection of the licensing objectives.

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, members of the public sometimes think, 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. The applicant already has five premises in Leeds (Armley, Bramley, Crossgates, Morley and New York Street) which trade without regulatory concern, even though none of them has any licence conditions on their premises licence. 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:

¹ Gambling Commission industry statistics.

- 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.
 - 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. Consistent and authoritative evidence on this topic is given by Gill Clulow (page 268) who has 25 years’ experience in venue management and compliance, Chris Green (page 267) with 32 years of experience across the industry and Darrell Butterworth (page 270), an independent witness, who has 30 years of experience in Greater Manchester Police as well as carrying out observations on bingo premises in a wide variety of locations.
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 messaging 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 Challenge 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.

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.* 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 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.
- Socially responsible messaging is displayed on digital machines.
- All machines display "Gamble Responsibly" notices 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 (which controls frequency, duration and spend), 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 (page 259), while the staff training is accredited by Gamcare. 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. *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.
- Customer levels 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.
- The applicant maintains good liaison with local Police.
- It will also join any available Betwatch scheme.

THE REGULATORY RECORD OF THE APPLICANT

18. 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.

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

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

20. 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.

21. 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.

THIS APPLICATION

22. The Gambling Commission requires applicants to prepare local area risk assessments as part of their premises licence applications. The applicant prepared such an assessment prior to this

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

application and has updated it in preparation for this hearing. The assessment is at pages 307-320. It is a detailed document, carried out by Gill Clulow who has 25 years' experience in venue management, area management and audit and compliance.

23. The assessment recognises that this is a deprived area with corresponding social issues. The assessment therefore sets out a comprehensive set of measures to promote the licensing objectives in the light of the locational context.
24. These measures have in turn been translated into a particularly thorough set of proposed operational conditions at pages 304-306, taking care to supplement and not to duplicate measures set out in the Licence Conditions and Codes of Practice and Mandatory and Default Conditions.
25. While the conditions should be read in their entirety, the following summary may be of assistance:

Crime and disorder

- *Compliance.* Condition 34 requires supply to the licensing authority of the applicant's compliance / operating manual which sets out all policies to meet regulatory requirements, together with any updates.
- *Hours.* Condition 1 prevents any gambling after midnight, which has to be notified by prominent signage outside (condition 26). In comparison, few of the applicant's premises have any hours restrictions on their licences.
- *CCTV.* Conditions 2-6 amount to comprehensive CCTV conditions including re the exterior.
- *Exterior conduct.* Condition 7 requires staff to monitor the exterior while condition 30 requires them to take steps to prevent street drinking outside and ban those who do so. Condition 31 requires an exterior notice explaining that drinking outside is prohibited and that those doing it will be banned.
- *Incident log.* Condition 8 requires an incident log. This will be electronic and will be overseen by area and national management. Condition 32 requires a protocol with the police as to incident reporting.
- *Maglock.* Condition 14 requires a maglock.

- *Staffing.* Condition 15 requires no pre-planned single staffing after 8 p.m. while condition 16 imposes an absolute requirement for two staff after 10 p.m. Condition 33 prevents full cash collections by lone staff members.
- *Banning.* Condition 17 requires the applicant to ban anyone upon request from the police or licensing authority, while condition 18 requires it to ban customers who engage in crime, disorder or ASB inside or out, and condition 19 requires the applicant to ban those under the influence of alcohol/drugs.
- *Staff Guard.* Condition 21 requires the installation of the Staff Guard system.
- *WCs* Condition 22 requires access to WCs to be controlled and WCs to be checked regularly.
- *Betwatch.* Condition 35 requires the applicant to participate in any local Betwatch or similar scheme.

Protection of children from being harmed or exploited by gambling

- Provision of operating manual to LCC (condition 34).
- Challenge 25 to be operated (condition 9).
- Prominent notices advertising Challenge 25 to be displayed inside and out (condition 10), in English and in any other language appropriate to the area.
- Incident log to record any attempts by children to gamble and Challenge 25 refusals (condition 8).
- Third party age verification testing at least three times a year and provided to LCC on request (condition 11).
- No logos or promotional material on merchandising designed for use by children (condition 12)
- Monitoring / intervention to ensure customers' children not left unsupervised outside (condition 13).

Protection of vulnerable people from being harmed or exploited by gambling

- Prevention of gambling by those under influence of alcohol / drugs (condition 19).

- Gambling advice and support information to be provided both in English and other languages appropriate to area (condition 23).
- Prominent GamCare documentation to be displayed (condition 24).
- No ethnicity-specific gambling promotion to entice gambling by local community (condition 25).
- No “happy hours” promotions (condition 27).
- Staff training / refresher training on local issues (condition 28).
- Liaison with local care providers (condition 29).

26. **The proposed conditions would be the most comprehensive of any of the 180 premises in the group’s estate. Indeed, none of the applicant’s other premises in Leeds have any premises licence conditions at all, which has not caused any regulatory concern. The Sub-Committee is invited to take great assurance in the applicant’s conscientious analysis of, and response to, local circumstances by taking on itself the legal obligations which these conditions impose.**

APPLICATION OF STATUTORY TEST

27. 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 paragraphs (a) and (b))

(d) in accordance with the [authority's statement of licensing policy] (subject to paragraphs (a) to (c))."

28. The following points may be noted:

(1) The test is mandatory: *"a licensing authority shall"*

(2) The obligation is to *"aim to permit"* where paragraphs (a) – (d) are satisfied. This is described by the Gambling Commission in its Guidance as *"the licensing authority's primary obligation"* (page 74).

(3) The *"aim to permit"* is explained in the leading textbook Patersons (page 85):

"... 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."

(4) One of the principal ways to comply with the obligation to aim to permit is to respond to issues with conditions rather than refusal if at all possible.

As Patersons says (page 85) :

"The most obvious way in which the authority will be able to exercise their powers in this way will be by an imaginative use of their power to frame and impose conditions so as to overcome objections to the application which might, in the absence of suitable conditions, lead to the application being rejected."

Similarly, as the Gambling Commission Guidance says (page 24 para 5.31):

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

(5) As the Guidance states: (para 5.34):

“Any refusal should be for reasons which demonstrate that the licensing objectives will not or are unlikely to be met”.

That means demonstrate by evidence.

(6) The following considerations are legally irrelevant to the determination of an application for a premises licence:

- A dislike of gambling (see Gambling Commission Guidance para 5.34).
- A general notion that it is undesirable to allow gambling premises in an area (para 5.34).
- Moral or ethical objections to gambling (para 5.34).
- The demand for gambling premises (see s 153 Gambling Act 2005 and Gambling Commission Guidance para 5.22). 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.
- Planning considerations (see section 210 Gambling Act 2005 and Gambling Commission Guidance para 5.22). As it happens, in any case, on 11th November 2020 LCC granted planning permission for the premises with permitted hours 8 a.m. to 11 p.m.
- Nuisance (see Gambling Commission Guidance para 5.5).

(7) 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 (Gambling Commission Guidance page 75 paras 9.28, 9.31).

SUBMISSIONS

29. 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 whatsoever before the Sub-Committee that it has failed to promote the licensing objectives anywhere.
- 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 5 locations in Leeds, of varying degrees of 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 conscientious risk assessment, the applicant has, uniquely, offered a set of 35 licence conditions which are designed to protect the licensing objectives at this site in this location.
- 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.

30. For these reasons, it is submitted that the test in section 153 is 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.

31. Accordingly, it is submitted that the application should be granted.
32. If it is granted, the standards to which this applicant is willing to adhere ought to form a benchmark for other premises locally which are not necessarily adopting like standards. This will produce further public benefits.

THE REPRESENTATIONS

33. In this case, there are representations by the licensing authority, the Police, local councillors and a number of local objectors. The applicant is respectful of their views and takes this opportunity to respond to them.
34. *The licensing authority.* The licensing authority points out the extent of deprivation and therefore vulnerability in the local area. The applicant is highly cognisant of this data, which has informed both its risk assessment and proposed licence conditions, which will inform its staff training, in which it will invite the licensing authority and local care providers to participate if they wish, and which will underpin its local liaison.
35. So far as children are concerned, despite the right to admit children to bingo premises the applicant does not admit children to its high street bingo premises at all. The licensing objective is preventing children being harmed or exploited by gambling. Children do not come in, let alone gamble in, the applicant's premises. Nor can they see in, and nor are they exposed to advertising or imagery attractive to them. This complies with the licensing objective, and also with the treatment of the objective by the Gambling Commission in its guidance and Licence Conditions and Codes of Practice.
36. The Act does not seek to prevent children from seeing gambling at all: for example children in Leeds walk past and can see into betting offices, they can go into pubs and see gaming machines, they can see lottery terminals and scratch cards in newsagents etc. Rather, the Act is structured around preventing children gambling (other than in certain permitted ways) and preventing advertising attractive to them.
37. So far as the protection of vulnerable people is concerned, the officer's representation has stressed that the local area is likely to include a higher than average number of vulnerable people. The applicant agrees with this. Therefore following a detailed risk assessment, it has proposed a series of measures in response, going beyond its already thorough national measures. This is what the process of local risk assessment is designed to achieve.

38. The Gambling Commission's Guidance does not suggest that the mere presence of a higher than average ratio of vulnerable people should result in a refusal. That is because the statutory obligation is to aim to permit and to frame conditions to respond to identified local risks. In its guidance (page 70) the Commission refers to matters such as physical layout, supervision of premises, use of floor-walkers etc. The applicant has taken account of the Guidance in its proposals.
39. At page 329, the licensing authority states that it would expect the applicant to engage with support services in the city, train staff on gambling related harms, and prominently promote referrals into support services. It is hoped that the Sub-Committee will accept that the applicant fully subscribes to these expectations and will meet them.
40. *The Police.* The Police have stated that local betting offices are associated with crime. The data has been carefully analysed by Mr. Butterworth who has pointed out that the local Asda apparently generates vastly more crime than any of the betting offices. However, the most important point is that crime data from betting offices provides no evidence that the applicant's high street bingo premises will generate crime and disorder, let alone crime and disorder which cannot be ameliorated by licence conditions. The applicant has proposed far-reaching licence conditions and, if this licence is granted, will liaise with the Police. However, based on the evidence of its experienced witnesses, and its track record nationally and in Leeds, it does not expect to be a drain on police resources locally.
41. *Local councillors.* The local councillors refer to local deprivation and are concerned about problem gambling and children, pointing to this being "an area already saturated with betting shops." It is hoped that the extensive evidence submitted with the application provides the Sub-Committee with assurance that the applicant takes its responsibilities in relation to this licensing objective seriously, and is proposing measures going far beyond its national-level obligations to meet local concerns. While it could have merely rested on the record that it has not been reviewed in any of its premises anywhere, including deprived areas, it has not done so. Instead, it has come forward with a thorough set of measures to protect the licensing objectives.
42. *Other objectors.* The other local objectors principally echo the concerns dealt with above so repetition is avoided here. They do make a number of points, however, which are not relevant to the Sub-Committee's consideration (but may have been relevant to the planning authority's consideration), including:
- Need for further gambling establishments.

- The number of betting shops and their propensity to squeeze out independent traders.
 - Effect on diversity of shops / businesses.
 - The effect on the character / tone of the area;
 - Nuisance;
 - Lack of benefit to area;
 - Immorality of gambling, moral obligation to prevent spread of gambling;
 - Impact on other business premises;
 - “Normalisation” of gambling. (The statutory aim is to permit compliant gambling.)
43. The objections are clearly conscientious and public-spirited. However, with respect, they do not provide any actual evidence that the licensing objectives will be harmed by this operator, with its systems of control, and with the detailed conditions proposed in this case.

CONCLUSION

44. The applicant is a highly competent and experienced operator, including in Leeds, where it has operated for many years. The operation will be fully compliant with the requirements of section 153 of the Gambling Act 2005. There is nothing in the Cashino’s record in Leeds or elsewhere, or in the evidence, which suggests otherwise.
45. Importantly, the applicant understands the local context, and will structure its operation and management to respect those sensitivities and work with local agencies to support their objectives.
46. Accordingly, it is respectfully submitted that the application should be granted, subject to the suggested conditions.

PHILIP KOLVIN QC
16th November 2020

11 KBW
Temple EC4