

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 12 February 2013

Subject: Large Casino Late Applications

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 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? 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 Licensing Authority received an application for a large casino provisional statement on the 23rd January 2013. This is after the closing date for applications which was 26 April 2012.
- 2 The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licence) Regulations 2008 Regulation 7(2) provides that a licensing authority is not required to consider an application made after the closing date however it does not prohibit it and this appears to give the licensing authority the discretion to consider an application made after the closing date.

Recommendations

- 3 Members are asked to determine if the application can be considered after the closing date, taking into account the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licence) Regulations 2008 Regulation 7(2) which provides that a licensing authority is not required to consider an application made after the closing date which seems to give a discretion to consider an application made after the closing date.

1 Purpose of this report

- 1.1 To request from Licensing Committee a decision as to whether a late application for a large casino premises licence can be considered after Stage 1 of the two stage process has been completed.

2 Background information

- 2.1 Members are reminded that the Council was given the right to grant a large casino licence under the Gambling Act 2005. The council has provided a two stage application process and set a timescale for the process which was included in the application pack approved by Members in January 2012.
- 2.2 The timetable set for the process was as follows:
- The stage 1 application process to commence on the 24th January 2012, ending on the 26th April 2012.
 - Site notice displayed for at least 28 consecutive days from 27th April 2012
 - Notice of the application to be given to responsible authorities by 3rd May 2012
 - The application advertised in the press by 10th May 2012
 - The last date for representations to be specified in notices to responsible authorities, advertisements and site notices being 24th May 2012
- 2.3 The large casino process, which is a two stage process, was started within the advertised timescales and the stage 1 applications were considered in July 2012.
- 2.4 As part of this process an applicant, London Clubs International, submitted a provisional statement after the closing date on 1 June 2012 when it became apparent that they did not meet the criteria required to apply for a premises licence. The Licensing Committee considered this matter on 16 July 2012 and decided to accept the late application, as the impact on the process was minimal and the new application was in relation to a technical issue that did not have long term consequences.
- 2.5 Notice to formally end stage 1 was served on 25th July 2012 once the period for any appeals had ended. The authority is not permitted to start stage 2 until stage 1 is complete.
- 2.6 An Advisory Panel was appointed for the purpose of evaluating and entering dialogue with the applicants remaining at Stage 2 of the process. Such evaluation has commenced and the dialogue phase is nearing completion.
- 2.7 The next step would be for the Advisory Panel to report their findings back to the Licensing Sub-Committee when Members would be asked to determine the successful applicant. The current timetable would allow determination to take place in May 2013.

3 Main issues

- 3.1 The Licensing Authority has received a new application for a provisional statement on the 23rd January 2013. This is after the closing date for applications and the end of Stage 1.
- 3.2 The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licence) Regulations 2008 Regulation 7(2) provides that a licensing authority is not required to consider an application made after the closing date however it does not prohibit it and this appears to give the licensing authority the discretion to consider an application made after the closing date. In making that decision Members should consider the public interest and regulatory risk to the casino process.
- 3.3 Section 3.1 and 3.2 of the Approved Code of Practice issued by the DCMS state that the process used by the licensing authority to determine the applications should be fair and should be the same for all applicants. The potential implication of considering an application after the closing date is that in order to be fair to all applicants, the council would have to accept any late application which could, effectively, reopen the first stage of the process. In addition, accepting this application would set a precedent for any other late applications made in the future.
- 3.4 Accepting a late application at this stage will delay the application process as Stage 2 will need to be suspended while the late application progresses through the regulatory process and the dialogue process to catch up with the other applications. The process up to this point has taken a year from the advertising of the start of the process to date. It is possible that suspending the process to consider a late application, any representations received and any appeals made would delay the process for a further six months to a year.
- 3.5 This may adversely impact the quality of the second stage applications of the other two applicants when stage 2 is recommenced. The delay may necessitate opening negotiations again with the other applicants thus delaying the process further. This could have a negative impact on the city and would delay the receipt of benefits expected from this process.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 This report is requesting a decision as to whether to accept a late application under the large casino licence process. This is a decision that can only be made by Licensing Committee under the delegated authority from Council on licensing principles and as such consultation has been restricted to the Members that will be making the decision.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality, diversity, cohesion and integration.

4.3 Council policies and City Priorities

4.3.1 The Council's wider 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

4.3.2 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 The application for a provisional statement attracts a fee, which is intended to cover any costs incurred by the council. However it is recommended that Members consider whether to accept the late application before the regulatory process has commenced in order to provide a swift resolution and preserve the indicative timetable. As such the fee has not been accepted and the cost of the decision is borne by the large casino process.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The exercise of discretion can be challenged before the courts in a Judicial Review.

4.6 Risk Management

4.6.1 The Council has received legal advice on this matter from internal and external sources.

5 Conclusions

5.1 The licensing authority has the discretion to accept an application made under the large casino process after the published closing date. However before doing so at this late stage in the process Members should consider what is in the public interest and any regulatory risk posed by considering a late application.

6 Recommendations

- 6.1 Members are asked to determine if the application can be considered after the closing date, taking into consideration the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licence) Regulations 2008 Regulation 7(2), the DCMS Approved Code of Practice and the approval process for awarding the licence in Leeds.

7 Background documents¹

- 7.1 There are no unpublished background documents that relate to this matter.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.