

REPORT OF THE LICENSING COMMITTEE

18 October 2006

Committee:

- * Councillor Andreas Tambourides (Chairman)
- * Councillor Kate Salinger BEd (Hons) (Vice-Chairman)

Councillors:

Maureen Braun	*Susette Palmer MA
*Terry Burton	*Wendy Prentice
Olwen Evans ACIS	*Hugh Rayner
*Claire Farrier	Joan Scannell
*John Hart BA MA	Ansuya Sodha MBA (Middx) Cert Ed,
*Julie Johnson	DipM (CIM), AMBA
*Kath McGuirk	*Jim Tierney

* denotes Member present

1. **GAMBLING ACT 2005 (Report of the Head of Planning and Environmental Protection – Agenda item 5):**

The Committee considered the attached report of the Head of Planning and Environmental Protection, including the revised draft of the Gambling Licensing Policy following consultation. It was noted that the majority of respondents to the consultation were in favour of a resolution not to licence casinos in the borough.

The Committee

RECOMMEND that Council

- (i) adopt the Gambling Licensing Policy (also known in the Gambling Act as Statement of Principles), subject to the amendment of paragraph 10.5.1 of the Policy if the Council does not pass a resolution not to licence casinos.**
- (ii) instruct the Head of Planning and Environmental Protection to arrange for its publication before 3 January 2007.**
- (iii) make a resolution not to licence any casinos within the borough, in order to protect children and other vulnerable persons from being harmed or exploited by gambling.**

AGENDA ITEM: 5 Page nos. 1-26

Meeting	Licensing Committee
Date	18 October 2006
Subject	Gambling Act 2005
Report of	Head of Planning and Environmental Protection
Summary	This report submits for approval a Policy [Statement of Principles] for Gambling Licensing.

Officer Contributors	Terry Vaughan, Group Manager, Health and Safety and Licensing
Status (public or exempt)	Public
Wards affected	All
Enclosures	Gambling Licensing Policy
For decision by	Council, on recommendation of the Licensing Committee
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	N/A

Contact for further information: Rick Mason, 020 8359 7865 or Terry Vaughan, 020 8359 7469

1. RECOMMENDATIONS

1.1 That Council be recommended to

- (i) adopt the Gambling Licensing Policy (also known in the Gambling Act as Statement of Principles), subject to the amendment of paragraph 10.5.1 of the Policy if the Council does not pass a resolution not to licence casinos.**
- (ii) instruct the Head of Planning and Environmental Protection to arrange for its publication before 3 January 2007.**

1.2 That the Committee's instructions be given on whether or not to make recommendations to Council relating to the licensing of casinos.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decision of the Licensing Committee on 30 May 2006 to approve for consultation the draft Gambling Licensing Policy.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The new gambling licensing regime is the result of a Government policy decision that local authorities are obliged to implement. There are three statutory objectives to be met through licensing:

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

- 3.2 The second objective is principally a matter for the Gambling Commission, which will issue operator and personal licences. The Council will be mainly concerned with gambling premises rather than gambling itself.

- 3.3 This Policy will assist the Council to achieve the licensing objectives through sound decisions and when necessary, the imposition of appropriate licence conditions.

- 3.4 It will directly support the 2006/7 – 2009/10 corporate plan priorities of 'Clean, Green and Safe' and 'Supporting the Vulnerable'.

4. RISK MANAGEMENT ISSUES

- 4.1 Failure to adopt a sound Gambling Licensing Policy that has regard to the Gambling Commission guidance and accurately reflects the views of the Council as licensing authority will hinder good decision-making with respect to licence applications and licence reviews. Judicial review of the policy by parties who believe it to be unsound would involve cost and possible adverse publicity.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

5.1 None.

6. LEGAL ISSUES

6.1 None.

7. CONSTITUTIONAL POWERS

7.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including "all functions under the ...Gambling Act 2005, associated Regulations, not otherwise delegated to the Licensing Sub-Committee".

8 BACKGROUND INFORMATION

8.1 At its meeting on 30 May 2006 the Licensing Committee approved a draft Statement of Gambling Licensing Principles. For 12 weeks ending on 22 September, the Statement was subject to consultation. It was placed on the Council's web site, discussed at a focus group of Citizens Panel members and business owners, and sent by post to statutory consultees, all Members and various other individuals and organisations. A questionnaire was included, and people were invited to comment on any aspect of the Statement. The full list of consultees is in the background papers. The comments received were broadly in support of the Statement. An analysis is included in the background papers.

8.2 After consideration of the comments, a number of changes were made to the Statement. These are indicated in the analysis of the consultation comments. They consist mainly of clarifications.

8.3 If the Statement is approved, the Committee will recommend it for adoption by full Council on 7 November before it is published on or before 3 January 2007 in accordance with the Gambling Act 2005.

8.4 The Statement may be changed at any time after adoption (after further consultation), and must be renewed at intervals of not less than three years.

8.5 One issue raised in the consultation is the question of whether the Council should make a 'no casinos' resolution. In making such a resolution, the Council may take into account any matters it thinks appropriate. There was a clear majority support for this in the consultation, and this may be a matter that the Council would consider relevant. Barnet currently has no casinos. As the number of new casinos will be strictly limited by statute, and other councils are competing for them, it is probably unlikely that applications for new ones will be received in Barnet. However, it is possible that the operator of an existing casino may wish to relocate in the Borough. If the Committee is minded to do so, it can recommend that the Council resolve not to permit any casinos in the Borough. The Council has power to revoke any 'no casinos'

resolution, should it wish to do so at a future date. The Policy contains a paragraph 10.5.1 which assumes that Council will pass a “no casinos” resolution. Should this not occur, the paragraph will be amended to state that the Council has not made a “no casinos” resolution.

9 LIST OF BACKGROUND PAPERS

9.1 List of consultees

9.2 Analysis of the replies to consultation.

9.3 Any person wishing to inspect these papers should telephone 020 8359 7469

Legal: SM

CFO: MG

London Borough of Barnet

Gambling Act 2005 - Draft Gambling Licensing Policy

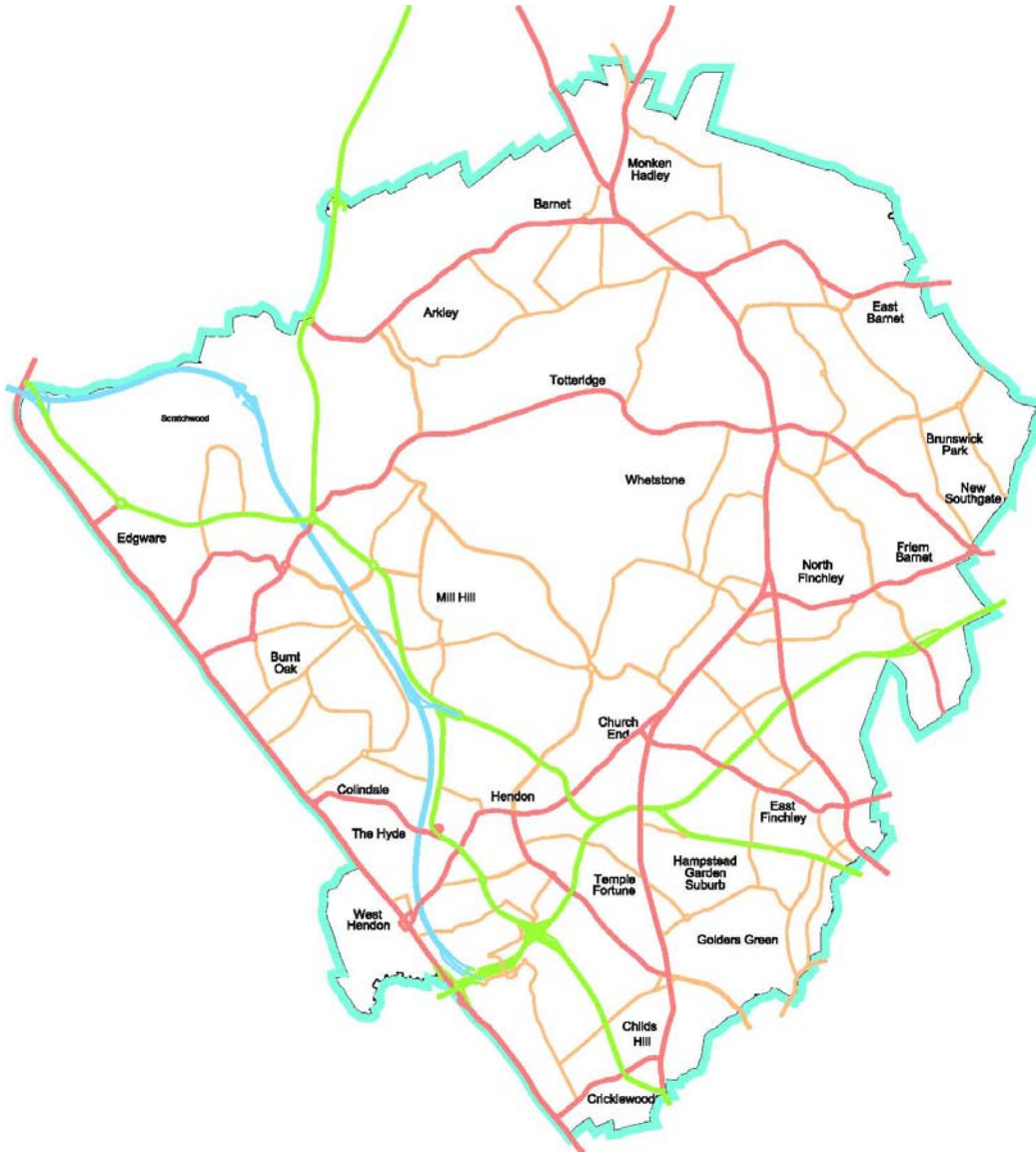
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1 Introduction

1.1 The Barnet London Borough Council here sets out its Gambling Licensing Policy, stating the principles that it will apply in all parts of the Borough of

Barnet when carrying out its functions as a licensing authority in accordance with the Gambling Act 2005.

- 1.2 The Borough is shown in the map below, and in detail at www.maps.barnet.gov.uk



- 1.3 This Policy directly supports the Council's 2006/7 – 2009/10 corporate plan priorities of 'Clean, Green and Safe' and 'Supporting the Vulnerable'
- 1.4 The Council understands that it must aim to permit the use of premises for gambling as long as it is satisfied that to do so would be in accordance with any relevant code of practice and guidance issued under sections 24

and 25 of the Act, and would be reasonably consistent with the licensing objectives and in accordance with this Policy.

- 1.5 The Council recognises that many people enjoy gambling, but is aware that gambling can sometimes lead to problems. It will therefore seek to balance competing interests, so that businesses that it thinks likely to cause problems are controlled, while those that will not cause significant risk to the licensing objectives are free of unnecessary restrictions.
- 1.6 The Council declares that, in producing this Policy, it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and all responses from those consulted on the draft.
- 1.7 The consultation took place over a period of 12 weeks ending on 22 September 2006 in accordance with the Revised Code of Practice and the Cabinet Office Guidance on consultations by the public sector.

The following were consulted:

- the responsible authorities
- residents associations
- Barnet councillors
- local members of parliament
- business organisations
- faith groups
- trade and other unions
- voluntary groups
- licence holders
- citizen's panel members

A total of 211 invitations to comment were sent out and in addition the documents were placed on the Council's web site. The full list of consultees, the comments received and the consideration of those comments is available on request from the Licensing Team and a summary of responses is available on the Council's web site: www.barnet.gov.uk

- 1.8 This Policy was approved at a meeting of the full Council on 7 November 2006 and published on xxxxxxxxxx.
- 1.9 The Council will keep in mind that this Policy was drafted at a time when a number of regulations, operating licence and personal licence conditions, codes of practice and guidance had not yet been published.

2 The licensing objectives

2.1 The Gambling Act 2005 states three licensing objectives:

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

2.2 The Council accepts that:

- In the case of gambling premises licences, the term 'disorder' is considered by the Gambling Commission to mean activity that is more serious and disruptive than mere nuisance
- The Commission does not expect licensing authorities in most circumstances to become concerned with ensuring that gambling is conducted in a fair and open way. This will either relate to the management of the gambling business (and therefore be subject to the operating licence), or to the actions of an individual (and therefore be subject to the personal licence)
- The term "vulnerable persons" is not defined. It may for example include people who gamble more than they want to, or 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 Council will consider this objective on a case by case basis and will not seek to interpret the term narrowly. The Council recognises that providers of gambling services will often have difficulty identifying individuals who are vulnerable and that in many cases it may not be possible to do so.

3 Licensing Authority functions

3.1 The Council is responsible for:

- Licensing and monitoring premises where gambling activities are to take place
- Issuing Provisional Statements when premises are not yet ready for a premises licence to take effect, or when the operator does not yet have a right to occupy them
- Regulating members' clubs and miners' welfare institutes that wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to commercial clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres (premises used wholly or mainly for making gaming machines available for use)
- Receiving notifications from alcohol licensed premises of the use of

- up to two gaming machines
- Granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, where more than two machines are required
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices
- Providing information to the Gambling Commission
- Maintaining registers of permits and licences
- Enforcing premises licence conditions

4 Responsible Authorities

4.1 The responsible authorities with respect to licensing premises in Barnet are:

- The Gambling Commission
- The Metropolitan Police Service
- The London Fire and Emergency Planning Authority
- The Council's Planning Service
- A group comprising the Council's Noise and Statutory Nuisance Manager, Scientific Services Group Manager and Street Enforcement Services Manager
- The Safeguarding Children Board
- HM Revenue and Customs
- The Council itself

Contact details for all the responsible authorities are available on the Council's web site, www.barnet.gov.uk

4.2 In selecting the Safeguarding Children Board as a body competent to advise about the protection of children from harm, the Council took into account the following points:

- The Safeguarding Children Board has a responsibility, under the Children Act 2004, to promote the welfare and safety of children and young people in Barnet
- The Board includes a variety of professionals with skills and experience directly relevant to the need to protect children from being harmed or exploited by gambling
- It is answerable to democratically elected persons and does not represent any particular interest group
- It is the responsible authority for the purposes of the Licensing Act 2003, and has experience of the licensing process

- The Board works in partnership with other local authority services and other organisations to make Barnet a safer place for children
 - The Board is able to provide advice about protecting children and guidance in accessing appropriate training
 - The Board works within the wider Pan London framework of child protection so as to promote a consistent approach across London
- 4.3 The responsible authorities have the right to make representations in connection with an application, or to ask for a review of an existing licence. Any such representations must be relevant to the application.
- 4.4 The Gambling Commission has a number of other important functions in the regulation of gambling. In particular, it issues operating and personal licences, is concerned with the second of the licensing objectives (as well as the others), and deals with internet gambling. These matters are not within the Council's remit. For information see www.gamblingcommission.gov.uk

5 Interested parties

- 5.1 These are people who, in the opinion of the Council:
- live sufficiently close to the premises to be likely to be affected by the authorised activities, or
 - have business interests that might be affected by the authorised activities, or
 - represent persons in either of these two groups.
- 5.2 An interested party can make representations to the Council on an application for the grant or variation of a premises licence, and can ask for a review of an existing premises licence.
- 5.3 The Council has not specified a distance from the premises within which a person must live or have a business interest in order to be considered an interested party, and will judge each case on its merits. The Council will interpret the term 'business interests' as widely as possible, and may recognise as interested parties local charities and other organisations.
- 5.4 To enable the Council to decide whether a person is an interested party, it will expect any person making a representation to give their name and address and explain how they or their business interests would be affected by the authorised activities. If this information is not provided, the Council will not accept the representation.

- 5.5 When assessing whether an individual lives or has business interests sufficiently close to the premises, the Council will take into account factors including:
- The size of the premises
 - The nature of the premises
 - The distance of the premises from the location of the person making the representation
 - The potential impact of the premises, such as the number of customers and the routes likely to be taken by those visiting the premises
 - The interests of the person making the representation. For example, the distance that would be considered close enough to be affected may be different in the case of a private resident, a school and a hostel for vulnerable adults.
 - The likely catchment area of the premises (how far people may travel to visit them)
 - Whether the person has business interests within the catchment area that may be affected.
- 5.6 Sometimes people may be asked by a neighbour to sign a petition or a letter in connection with an application. This can make it harder for the Council to judge whether or not the individuals are interested parties. The Council normally prefers that people state their own views in their own representations rather than sign a petition or a letter written by someone else.
- 5.7 The Council will accept representations from local residents', tenants' or business associations, trade unions, and any other bodies or individuals, provided that they have at least one member who is an interested party. Unless the person making the representation is a locally elected councillor or MP, the Council may require written evidence that they represent identified interested parties. A letter from one of these persons requesting the representation is sufficient.
- 5.8 To be deemed relevant, a representation must relate to the licensing objectives or raise issues under this Policy or the Gambling Commission's guidance or codes of practice. If there are other concerns, they can be referred to the relevant authority.
- 5.9 In deciding whether to treat a representation as frivolous or vexatious, the Council will take into account issues including:
- Who is making the representation and whether that person has a history of making representations that are not relevant
 - Whether or not it raises a relevant issue

- Whether it raises issues specifically to do with the premises which are the subject of the application.
- 5.10 The Council recognises that neither the need (commercial demand) for the premises to be licensed, nor people's moral objections to gambling are matters to be taken into account by a licensing authority.

6 Exchange of information

- 6.1 The Council will seek to establish protocols for the exchange of information with the responsible authorities, and will share any concerns about the effect on the licensing objectives of any application or the operation of any licensed premises with the relevant authority.
- 6.2 The Council may share risk-rating information with the responsible authorities, and will inform the Gambling Commission without delay if:
- It receives information that causes it to question the suitability of the applicant to hold an operating licence.
 - There are persistent or serious disorder problems that an operator could or should do more to prevent.
 - It comes to the Council's attention that alcohol-licensed premises or clubs or institutes are playing bingo which involves significant stakes and prizes making it possible that the statutory limit is being exceeded.
 - The Council has concerns about the manufacture, supply or repair of gaming machines
- 6.3 Any personal data the Council collects and uses will be treated in accordance with the Data Protection Act 1998. It will only be collected and used for appropriate purposes. The Council will endeavour to ensure that personal data will be processed in accordance with the principles of the Data Protection Act, and that any disclosures will be in accordance with our Notification registered with the Information Commissioner, which can be viewed at www.ico.gov.uk
- 6.4 Details of all the information that is available under the Freedom of Information Act 2000 are given in the Council's Publication Scheme. For further information, contact the Freedom of Information officer at foi@barnet.gov.uk
- 6.5 Personal information is kept secure in paper files and password-protected software applications. The public do not have access to personal information.

All Council employees who have access to and are associated with the processing of personal data are obliged to respect the confidentiality of

personal data at all times. The Council ensures that personal data will not be disclosed to government institutions and authorities except as required by law.

- 6.6 Individuals may ask the Council for information held about them by writing to the Data Protection Officer or by email to data.protection@barnet.gov.uk

7 Inspection and enforcement

- 7.1 The main enforcement role for the Council is to ensure compliance with premises licences. All the powers of officers authorised by the Council under the Act will be exercised in accordance with the Enforcement Concordat/Regulators' Compliance Code. Enforcement action by Council officers will be:

- Proportionate – the Council will only intervene when necessary; remedies will be appropriate to the risks posed and costs will be identified and minimised
- Accountable – the Council will be able to justify decisions, and be subject to public scrutiny
- Consistent – rules and standards will be implemented fairly
- Transparent – the Council will be open and will do its best to keep things simple and user-friendly
- Targeted – the Council will always focus on the problem and do its best to minimise side effects. Priority will be given to higher-risk premises and activities.

- 7.2 Any enforcement action will be in accordance with the relevant enforcement policy.

- 7.3 The Council's licensing officers will monitor ongoing compliance with licence conditions. They may carry out inspections without prior notice to the occupier or licensee.

- 7.4 Planned enforcement activity will be prioritised according to assessed risk (the potential for harm to the licensing objectives). Subject to later guidance, when assessing risk, the Council may take into account the following matters:

- The type of gambling and its potential to result in harm
- The size of the premises and the number of patrons
- The standard of compliance with licence conditions
- Officers' confidence in the ability and intention of the management of the premises to maintain good standards of compliance with licence conditions.

- Relevant information from other agencies
- 7.5 The risk rating for each premises will be kept under review and may change.
- 7.6 The Council is prepared to receive complaints about licensed premises and, with the agreement of the complainant, deal with them informally with the aim of securing improvement if necessary without the need for a formal review of the licence.
- 7.7 The Council will not tolerate non-compliance with licence conditions or licensable activity at unlicensed premises except in accordance with a Temporary Use Notice.
- 7.8 To improve liaison with chain operators in the event of compliance issues arising, they are invited to provide the Licensing Team with a single point of contact.

8 Applications

8.1 General principles

- 8.1.1 The Council has no rigid rules about the acceptability of applications and will consider each on its merits.
- 8.1.2 The matters that it will generally take into account when considering applications for permits and licences and when reviewing a licence are set out below. If, in a particular case, an applicant or licence holder can show how they might overcome concerns about a licensing objective that will be taken into account. The matters are:
- The type and nature of the gambling activity
 - The proximity of the gambling premises to sensitive premises such as schools or centres for vulnerable adults, or to residential areas where there may be a high concentration of families with children, and the likelihood that children or vulnerable adults will enter the premises
 - Where permits or licences are sought for use at premises that may attract children, or where children may be present, the Council will give particular weight to child protection issues. The Council is aware that children may be harmed not only by taking part in gambling, but also if they are able to watch it taking place. This concern may be particularly relevant at premises where there are multiple licences, where only part of a premises is licensed or where permits are to be used in part of a premises only.
 - The adequacy of any proposed measures to prevent crime connected with gambling

- The adequacy of any proposed steps to prevent access by children and vulnerable adults, or to prevent such people from seeing gambling taking place
- The public availability at the premises of information about organisations that can provide advice and support in relation to gambling and debt, for example GamCare, Gamblers Anonymous, the Gordon House Association, the National Debtline and local Citizens Advice Bureaux and other relevant advice agencies.
- The existence of crime and disorder (particularly if it has required police intervention) or actual harm to children or vulnerable adults, where these are connected to gambling at the premises.

8.1.3 It will assist the Sub-Committee in contested cases if applicants, responsible authorities and interested parties address these matters.

8.1.4 When considering applications, Sub-committees will decide matters of fact on the balance of probabilities.

8.1.5 The Council will place information about licence applications on its web site, and will notify ward councillors when applications are received.

9 Permits

9.1 General principles

9.1.1 The Council's resolution "That the Council will neither grant nor renew any permit under Section 34 of the Gaming Act, 1968 in respect of any premises other than those to which paragraph 4 of schedule 9 of the Act applies", passed under Paragraph 3 Schedule 9 of the Gaming Act 1968, no longer applies.

9.1.2 The Council believes that gambling, including the use of category D gaming machines, is harmful to children. The Council believes that the use of gaming machines by children is not consistent with the third licensing objective.

9.1.3 The Council will not grant permits for any category of gaming machines where it considers that they are likely to be used by or easily accessed by children. Permits may be granted if adequate precautions are offered by the applicant. These could include, for example, steps to prevent access to the machines by children, and training for staff with respect to suspected truants and unsupervised very young children on the premises. At premises licensed for gambling, conditions may be imposed where it is considered necessary to prevent children from using or having easy access to gaming machines.

9.1.4 A problem of particular concern in Barnet is the high level of burglary targeted at gaming machines. The Council considers that this is relevant to the first licensing objective.

9.1.5 Precautions to reduce the risk of burglary or theft from the machines may include:

- good security to deter break-ins
- machines monitored by overt CCTV systems of an adequate standard to meet police recommendations
- machines to be of substantial construction to resist damage
- emptying machines of cash nightly, and displaying a notice stating that this is done
- siting machines where they can be observed by staff or the licence holder to deter theft when the premises are open
- providing adequate secure cash storage facilities to police recommendations

9.1.6 Conditions such as these may be imposed on premises licences in contested cases, or permits may be refused, if there is concern about the risk of burglary targeted at gaming machines.

9.1.7 The Council recommends that applicants consult the police, including the local Safer Neighbourhood Team, at an early stage, to obtain advice about crime prevention measures.

9.1.8 When considering an application for a permit, the Council will take into account the applicant's suitability (including whether they have a conviction for any relevant offence).

9.2 Unlicensed Family Entertainment Centre gaming machine permits

9.2.1 The Council has not determined specific principles in connection with these permits over and above the general principles in this Policy.

9.3 Alcohol Licensed premises gaming machine permits

9.3.1 Premises licensed to sell alcohol for consumption on the premises may automatically have two gaming machines, of categories C and/or D. The operator merely needs to notify the Council. The Council may remove this right if there is evidence of harm to the licensing objectives, disorder (which in this context may be given a wider interpretation) or risk of harm to children.

9.3.2 If an applicant applies for additional machines, the Council will take into account the licensing objectives, any guidance issued by the Gambling

Commission under Section 25 of the Gambling Act 2005, the general principles in this Policy and other matters that it may think relevant. The Council expects that any such matters will be decided on a case by case basis, and has no specific policy on this point.

9.4 Prize Gaming Permits

9.4.1 The Council has not determined specific principles in connection with these permits over and above the general principles in this Policy.

9.5 Club Gaming and Club Machines Permits

9.5.1 The Council has not determined specific principles in connection with these permits over and above the general principles in this Policy.

10 Premises licences

10.1 A premises licence may authorise:

- the operation of a casino
- the provision of facilities for playing bingo
- making category B and C gaming machines available for use
- the provision of facilities for betting

10.1.2 The Council recognises that every application and representation made in connection with premises licences, with the exception of applications for a casino licence, must be treated on its merits.

10.1.3 The Council will pay particular attention to applications where access to the licensed premises is through other premises. It will take into account before granting such applications whether children can gain access; the compatibility of the two establishments; and whether it is likely to be difficult to comply with the requirements of the Act.

10.1.4 In addition an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

10.1.5 The Council will take into account the location of premises in the context of the crime prevention objective. For example, if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, the Council will consider what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors. The

Council has not identified any such areas, but will be receptive to advice from the police when considering applications.

10.1.6 The Council will take into account the proximity of premises to a school or to any centre for gambling addicts or other vulnerable people when considering applications for a licence. However, each case will be decided on its merits, and the outcome may depend to a large extent on the type of gambling that will be offered on the premises.

10.2 Adult Gaming Centres

10.2.1 The Council will have particular regard to the location and management of entrances to adult gaming centres. It will wish to see that the opportunities for children to gain access are minimised. This will be of particular importance if young people are likely to be unsupervised and the gaming centre is in a complex, such as a shopping centre.

10.3 Licensed Family Entertainment Centres

10.3.1 The Council has no special policies with respect to licensed family entertainment centres but will deal with applications taking into account all relevant general principles.

10.4 Tracks

10.4.1 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. The Council has no special policy on these issues, but will take into account the size of the track and associated area and the ability of staff to monitor the use of the machines by children and vulnerable people when determining the number of machines permitted.

10.4.2 The Council will normally attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public.

10.5 Casinos

10.5.1 The Council has resolved not to licence casinos, with immediate effect.

10.6 Bingo

10.6.1 The Council has no special policy with respect to bingo but will deal with applications taking into account all relevant general principles.

10.7 Betting premises

10.7.1 The Council has no special policies with respect to betting premises but will deal with applications taking into account all relevant general principles.

10.7.2 The Council is aware that there is a trend to enlarge betting offices and that this can result in improved customer facilities. The Council will look favourably on applications to improve customer facilities by enlarging or relocating existing premises, provided this does not entail risk to the licensing objectives.

11 Premises Licence conditions

11.1 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions detailed in regulations. It is expected that in most cases the mandatory and default conditions will be appropriate and sufficient, but the Council is able to exclude default conditions and also attach others. The Council will be concerned to ensure that appropriate conditions are attached to licences, and if it believes that the mandatory and default conditions will not be appropriate or sufficient in a particular case, it will be minded to impose others. Similarly, it may be prepared to remove or amend default conditions if satisfied that to do so would not harm the licensing objectives.

11.2 The Council accepts that conditions, other than mandatory ones, must be tailored to the individual style and characteristics of the premises concerned. Apart from the mandatory conditions, the Council will not apply conditions from a standard list without regard to the particular circumstances of the application. It will only apply conditions if they are:

- Relevant to the need to make the proposed building suitable as a gambling facility, or
- Directly related to the type of licence applied for
- Relevant to one or more of the licensing objectives
- Fairly and reasonably related to the scale and type of premises
- Reasonable in all other respects

In this way, unnecessary or disproportionate conditions will be avoided.

11.3 The Council expects that any licence holder or applicant will comply with all relevant legal requirements. It is therefore unnecessary to impose any

licence condition that clearly duplicates the requirements of other regulatory regimes, and so far as possible, the Council will not do so.

- 11.4 If there is justified concern about serious, disruptive or threatening disorder, particularly if police intervention has been necessary, suitable licence conditions such as door supervision or the use of CCTV will normally be appropriate.
- 11.5 Licence conditions may be imposed if there is justified concern about burglary targeted at gaming machines or the use of gaming machines by children.
- 11.6 The Council believes that children should not normally be permitted access to premises, or parts of premises, where gambling takes place, and precautions to protect children may be needed. These may include:
- clear identification of entrances to gambling premises
 - display of notices indicating that access to the area by persons under 18 is prohibited
 - door supervision
 - checking ages of younger patrons
 - good configuration of mixed-use premises to prevent drift of patrons or sight of gambling by children
 - ensuring that all gaming machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which prevents access other than through a designated entrance
 - ensuring that only adults are admitted to the area where such machines are situated
 - supervision of gaming machines, for example by ensuring that they are sited where they can be observed by staff or the licence holder
- 11.7 When considering whether to impose a licence condition to restrict the number of betting machines in particular premises, the Council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.
- 11.8 Because door supervisors at bingo premises cannot be licensed by the Security Industry Authority (SIA), the Council has its own requirements for door supervisors working at such premises. They are the same as the requirements of the SIA for door supervisors working at other premises. A person licensed by the SIA to work at other types of premises will be considered suitable.

- 11.9 The Council accepts that door supervision is not automatically necessary at bingo or any other type of premises and will not impose this requirement unless there is clear evidence of need.
- 11.10 The fairness and openness of gambling are primarily matters for the Gambling Commission, which has the power to impose relevant conditions on operating and personal licences. The Council will not impose conditions on premises licences in connection with this objective except in the case of track licences, where the track operator may not have an operating licence.

12 Planning and Building Control

- 12.1 The Council wishes to reconcile planning, building control and licensing considerations whenever possible. Licensing decisions will not over-rule planning or building control decisions, as the legal framework for each is different.
- 12.2 Licensable activities cannot lawfully be carried on at premises unless there is both a premises licence or permit (other than in accordance with a Temporary or Occasional Use Notice) and any necessary planning permission and building regulation approval. A licence will not remove the need for planning permission or building regulation approval, should these be necessary. The onus is on the licence holder or applicant to ensure that these permissions exist.
- 12.3 Where there is no relevant planning permission or building regulation approval, or where there are planning conditions that conflict with the licence application, the Council invites applicants to submit a planning application or building regulation approval application as early as possible in order to regularise the position.
- 12.4 When making decisions the Council will ensure separation of its licensing function from its planning and building control functions. The Licensing Committee will not take into account whether or not the premises have or comply with planning or building consents. If they do not exist, the Council expects that a planning application or building regulation approval application would be submitted and determined separately. The grant of a licence will not preclude enforcement action by the relevant authorities.
- 12.5 The Council will take into account any concerns about conditions that are not able to be met by licence holders due to planning restrictions.

13 Licence reviews

13.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Council to decide whether the review is to be carried out. This decision will be made on the basis of whether the request for the review is relevant to the matters listed below, but the Council will not review a licence if it considers the request to be frivolous, vexatious or repetitious, or that a review will certainly not cause the Council to alter, revoke or suspend the licence, or the request is substantially the same as previous representations or requests for review. The holding of a review must be:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- consistent with the licensing objectives and
- in accordance with the Council's Gambling Licensing Policy

13.2 The Council can itself initiate a review of a licence, and may do so if it appears to its officers that the licensing objectives are being harmed. It is open to any officers of the Council authorised to do so to initiate a review in the Council's name, but it is expected that in most cases licensing officers will take the lead.

13.3 However, the Council does not wish its licensing officers to take on the initiation of a review that could otherwise be requested by another responsible authority or an interested party. Where evidence of harm to the licensing objectives is provided by a responsible authority or an interested party who wants a review to take place, the Council expects that they, not the licensing officers, will normally initiate the review.

14 Temporary and Occasional Use Notices

14.1 The Council has no specific policies with respect to temporary or occasional use of premises for gambling, but will take particular care to ensure that, where temporary arrangements are put in place to protect the licensing objectives, they are sufficiently robust.

15 Travelling Fairs

15.1 The Council has no special policies with respect to gambling at travelling fairs, but will be concerned to ensure that statutory requirements are met.

16 Lotteries

16.1 Registration of non-commercial society lotteries may be refused if it appears that the applicant is not a non-commercial society, and the

Council will therefore expect full details to be provided of the purpose for which the society is established. The Council may make enquiries to satisfy itself on this point.

- 16.2 If the Council is minded to refuse to register a lottery, or to revoke a registration, it will inform the applicant, stating the reasons, and the applicant will have the right to make representations. Any such representations will be heard by a sub-committee of the Licensing Committee.
- 16.3 The Council does not currently possess an operating licence in its own name for the purposes of promoting a lottery for the benefit of the community.

17 Integration of licensing with other strategies

- 17.1 The Council will ensure, so far as is consistent with the Act and guidance, that action taken under this policy supports and does not conflict with strategies for local crime prevention and community safety, planning, equality, tourism and cultural issues, including in particular:
- The Cultural Strategy for London
 - The objectives of the Security Industry Authority
 - The Safer Communities Strategy <http://www.barnet.gov.uk/community-safety-strategy>
 - The Sustainable Communities Strategy. <http://www.barnet.gov.uk/sus-community-strategy-2006-2016.pdf>
 - Putting the community first: Barnet's Equalities policy <http://www.barnet.gov.uk>

18 Tourism and employment

- 18.1 The Council recognises the relevance of licensed premises to tourism and employment in the Borough. The Licensing Committee will receive reports from any body that it considers appropriate on the needs of the local cultural strategy, and tourist economy, including the employment situation in the area and the need for new investment and employment. These issues will be taken into account so far as the Gambling Act permits when making licensing decisions.

19 People with disabilities

- 19.1 The Council encourages the provision of proper facilities for disabled people at licensed premises, and will offer advice and information where necessary to assist applicants.

20 Promotion of equality

- 20.1 The Council is obliged to have due regard to the need to eliminate unlawful discrimination, for example on the grounds of race, gender, disability, sexual orientation or religion, and to promote equality of opportunity and good relations between persons of different groups. When considering applications and representations, the Council will treat all parties equally. However, it can take into account only the issues provided for in the Gambling Act.

21 Delegation of functions

Matter to be dealt with	Licensing sub-committee	Head of Planning and Environmental Protection
Application for premises licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application to vary premises licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for transfer of a licence	Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for provisional statement	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence	All cases	

Application for club gaming/club machine permits	Where objections have been made (and not withdrawn)	Where no objections have been made/objections have been withdrawn
Cancellation of club gaming/club machine permits	All cases	
Applications for other permits		All cases
Cancellation of licensed premises gaming machine permits		All cases
Consideration of temporary use notice		All cases
Decision to give a counter notice to a temporary use notice	All cases	
Decision to reject a representation on the grounds that it is not from an interested party		All cases
Initiation of review of a premises licence by the Council in its capacity as licensing authority		All cases
Fee setting (when appropriate)		normal budget-setting arrangements
Consideration of representations when the Council is minded to refuse to register a lottery or to revoke a lottery registration	All cases	

22 Licensing Register

- 22.1 The Council will establish and maintain a Licensing Register containing the information required by statute, and keep it available for inspection. It can be seen on request to the Licensing Team, telephone 0208 359 7995.

23 Relevant documents

- The licensing enforcement policy
- The Enforcement Concordat
www.cabinetoffice.gov.uk/regulation/pst/enforce/enforcecon.asp
- The Regulators' Compliance Code
- The Human Rights Act 1998
www.hmso.gov.uk/acts/acts1998/19980042.htm
- Crime and Disorder Act 1998
www.hmso.gov.uk/acts/acts1998/19980037.htm
- Disability Discrimination Act 1995
http://www.hmso.gov.uk/acts/acts1995/Ukpga_19950050_en_1.htm
- Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005
<http://www.gamblingcommission.gov.uk/UploadDocs/pressrelease/Documents/Guidance%20to%20Licensing%20Authorities.pdf>

24 Complaints about the licensing service

- 24.1 The Council will investigate any complaint about the way it deals with a licensing issue, and will inform the complainant of the outcome. If the complaint is justified, it will put the problem right if possible. The Council has a formal complaints procedure. For information see <http://www.barnet.gov.uk/contact-us.htm>

25 Further information

- 25.1 For information about applications, fees, how to make a representation, details of the responsible authorities and the licensing register, see www.gamblingcommission.gov.uk or contact the Licensing Team on 020 8359 7995, licensingadmin@barnet.gov.uk or see the Council's website, www.barnet.gov.uk

26 Commencement and review

- 26.1 This Policy will come into effect on 3 January 2007. It will be kept under review and the Council may make changes after consultation. It will be renewed every three years. The Council will be pleased to receive the views of responsible authorities, individuals or organisations at any time.