

Decisions of the Licensing Sub-Committee

28 September 2023

Members Present:-

Councillor Richard Barnes
Councillor Emma Whysall
Councillor Geof Cooke

1. APPOINTMENT OF CHAIR

RESOLVED that Councillor Richard Barnes be appointed Chair for this Licensing Sub-Committee meeting.

2. ABSENCE OF MEMBERS (IF ANY)

None.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND OTHER INTERESTS (IF ANY)

None.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

The Chairman explained the procedure that would be followed at the meeting.

5. REPORT OF THE LICENSING MANAGER - MERKUR SLOTS, 48 BALLARDS LANE FINCHLEY LONDON N3 2BX

The Sub-Committee considered an application for a Variation of a Bingo Premises Licence, under section 187 of the Gambling Act 2005 for Merkur Slots, 48 Ballards Lane, Finchley, London N3 2BX.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC

RESOLVED that the parties be excluded from the meeting, together with the press and public, in accordance with the Regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations 2005).

Prior to exclusion, parties were notified that the decision of the Sub-Committee would be announced within 5 working days.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The Sub-Committee deliberated in private session, accompanied by the Officer from HB Public Law and the Governance Officer.

8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE

DECISION OF THE SUB-COMMITTEE

Notification of decision following a Licensing Sub-Committee hearing to determine an application for a variation of a premises licence under section 187 of the Gambling Act 2005

PREMISES: Merkur Slots, 48 Ballards Lane, Finchley, London N3 2BX (the "Premises")

APPLICANT: Merkur Slots UK Limited

TAKE NOTICE THAT ON 28 September 2023 following a hearing before the Licensing Sub Committee (the "Sub-Committee"),

BARNET COUNCIL, as the Licensing Authority for the Premises **RESOLVED that:**

the application for a premises licence for a variation of a bingo premises licence under section 187 of the Gambling Act 2005 for Merkur Slots, 48 Ballards Lane, Finchley, London N3 2BX is **GRANTED, as follows:**

Condition 1 as specified under Part 3 of the Bingo Premises Licence restricting the premises operating hours is removed

The default hours for bingo are removed

REASONS:

1. The Sub-Committee convened to determine an application for a variation of a premises licence for the Premises under section 187 of the Gambling Act 2005.
2. The Application seeks to remove condition 1 as specified under Part 3 of the Bingo Premises Licence restricting the Premises' operating hours and to remove the default hours for bingo.
3. The Premises are currently licensed under a licence in the name of Cashino Gaming Limited. The Applicant explained that the Applicant company's new trading name is Merkur Slots UK Limited.
4. The Licensing Sub-Committee carefully considered all the relevant information including:
 - Written and Oral representations made by all the parties
 - The Gambling Act 2005 and the steps appropriate to promote the Licensing Objectives
 - The Guidance to Licensing authorities issued by the Gambling Commission
 - The Council's Statement of Principles 2022-2024 issued as required under the Gambling Act 2005
 - The Human Rights Act 1998

5. As part of the consultation process the Authority received no representations from Responsible Authorities.
6. Representations were received from 16 local residents including the Ward Councillor objecting to the Application. The representations can broadly be described as objecting to the Licence on the basis of protecting children from harm and public nuisance.
7. The Applicant also submitted representations from Philip Kolvin KC, its Operations Director, its Head of compliance and its Head of Product as well as Covert Inspection reports into other premises run by the Applicant and supporting documents in support of the Application.
8. The Applicant was present at the hearing and was also assisted by Philip Kolvin KC . In his oral representations, the Applicant's legal representative addressed the objections that had been made to the application arguing that the Sub-Committee could only have regard to representations which were relevant and which addressed the licensing objectives and that many of the representations made by the objectors were irrelevant as for example alcohol was not sold or consumed on the Premises, although the Applicant's legal representative conceded that some of the objections raised would be relevant to a planning application that the Applicant would have to make. Although the Sub-Committee accepted that it was not a relevant question for the application that was before the Sub-Committee today, the Applicant's legal representative was also asked questions about whether the Premises had a late night refreshment licence. The Applicant's legal representative conceded that it did not have one before responding that in his view it did not require one.
9. The Applicant's legal representative was asked questions about the Local Area Risk assessment and could not explain why the Local Area Risk assessment was dated 25 March 2022 but referred to crime figures from December 2022. He was also not able to offer any response as to why the census data relied upon was not up to date or explain why the Local Area Risk assessment relied on Age verification tests for 2019/2020 and requested an adjournment to obtain more recent information. The information then provided to the Sub-Committee was that the Premises had failed an age verification test in June 2023 but subsequently passed its most recent Age verification test in August 2023.
10. The Ward Councillor and three of the other Objectors who had submitted written objections to the application were present and addressed the Sub-Committee about their objections to the application. The objections raised were in relation to drug dealing in the area, to the number of gambling shops already in the area, the effects of gambling on vulnerable people and about alcohol and anti-social behaviour.
11. The Sub-Committee questioned the first Objector about whether she intended to raise the same objections when the Applicant made its planning application and she responded that she was not aware that the Applicant would be making a planning application before today's hearing and that this would depend upon whether she was in the country at the time. The Sub-Committee questioned the Ward Councillor about whether there was any link between anti-social behaviour in the area and the Premises. The Ward Councillor conceded that there was no link between anti-social behaviour in the area and the Premises. The issue is

then, if the Sub-Committee decided to grant the variation to the Licence, whether the assurances made by the Applicant's legal representative regarding how the Applicant operates its licence and the Licensing objectives would be sufficient to address these concerns.

12. The Gambling Commission's Guidance to licensing authorities states that:

“1.19. The Act places a legal duty on both the Commission and licensing authorities to aim to permit gambling, in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives. The effect of this duty is that both the Commission and licensing authorities must approach their functions in a way that seeks to regulate gambling by using their powers, for example, powers to attach conditions to licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.

...

1.20. The three licensing objectives (s.1 of the Act) which guide the way that the Commission and licensing authorities perform their functions and the way that gambling businesses carry on their activities are:

- 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.”

13. The Licensing Authority's own Statement of Licensing Policy 2020 also states how it considers the issue of protecting children and other vulnerable persons from being harmed or exploited by gambling at section 10 of the Policy, stating that:

“10.8.3 The London Borough of Barnet has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). London Borough of Barnet will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

10.8.4 The London Borough of Barnet expects operators of gambling premises to have in place policies and measures to ensure children and other vulnerable people are protected from being harmed or exploited by gambling. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.”

14. The Sub-Committee noted this guidance and the comments in the Licensing Authority's statement of licencing policy and noted the oral and written representations that had been received from the Objectors of their concerns about

the protection of children from harm, anti social behaviour, crime and disorder and nuisance.

Decision

15. Having taken all the representations into account, the statutory provisions and the Guidance to Licensing authorities issued by the Gambling Commission and the Council's Statement of Principles 2022-2024 issued as required under the Gambling Act 2005, the Sub-Committee considers that it is reasonable to grants the Applicant's application for a variation of the premises licence.
16. The Licensing Sub-Committee has therefore decided to **GRANT** the application for a variation of the Premises Licence and that as a consequence:

Condition 1 as specified under Part 3 of the Bingo Premises Licence restricting the premises operating hours is removed.

The default hours for bingo are removed.

Right to Appeal

18. Any party aggrieved with the decision of the Licensing Sub-Committee may appeal to the local Magistrate's Court under Part 8 of Gambling Act 2005 within 21 days of notification of this decision.

9. ANY OTHER ITEM(S) THE CHAIR DECIDES ARE URGENT

None.

The meeting finished at 12.15 pm