

Decisions of the Licensing Sub-Committee

4 July 2017

Members Present:-

Councillor John Hart (Chairman)

Councillor Alison Cornelius

Councillor Jim Tierney

Also in attendance

Harinder Dhaliwal – HB Public Law Legal Officer

Faith Mwende – Governance Officer

Daniel Pattenden – Licensing Authority

Nindi Dhanja – Agent for the Applicant

Gerald Gouriet – Barrister for the Applicant

Councillors:

Councillor Nagus Narenthira

Councillor Gill Sargeant

Councillor Zakia Zubairi

1. APPOINTMENT OF CHAIRMAN

Councillor Alison Cornelius, seconded by Councillor Jim Tierney nominated Councillor John Hart to preside as Chairman for the meeting.

2. ABSENCE OF MEMBERS (IF ANY)

None.

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

None.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE

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

5. NEW PREMISES APPLICATION: PADDY POWER, PLOT 299, 128 COLINDALE AVENUE, LONDON, NW9 4AX

The Sub-committee considered an application for a New Premises Licence for a Betting (other), under section 159 of the Gambling Act 2005 for Paddy Power, Plot 299, 128

Colindale Avenue, London, NW9 4AX together with submissions from the Licensing Officer, the Applicant and the Local Ward Councillors and public speakers who were objecting to the application.

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 regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations) 2005.

All parties were informed that the Committee's decision would be advised to all interested parties within 5 working days.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION

The Sub-Committee deliberated in private session, accompanied by officers from HB Public Law and the London Borough of Barnet Governance Service.

8. ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE

The Sub-Committee, having considered the application and all verbal and written representations received, by a majority decision **RESOLVED:**

Decision Notice

This was an application submitted by Poppleston Allen on behalf of Power Leisure Bookmakers Ltd in respect of Plot 299, 128 Colindale Avenue, London, NW9 4AX. The application was submitted under section 159 of the Gambling Act 2005 for a premises licence.

The Sub-Committee considered all the representations made and heard representations from the representative of Paddy Power, and the objectors which included residents and the three Colindale Ward Councillors. The Sub-Committee had regard to any relevant code of practice under section 24, the Gambling Commission's guidance, Barnet Council's statement of licensing policy and the following licensing objectives set out in section 1 of the Gambling Act 2005 in reaching its decision, namely:

- 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

The Sub-Committee noted that some of the representations referred to the demand and need for a premises of this nature in the area. However, the Sub-committee noted that section 153 of the Gambling Act 2005 makes it clear that in deciding whether or not to grant a licence, a licensing authority must not have regard to the expected demand for gambling premises that are the subject of the application. Hence, the expected demand for the premises was not taken into account in the decision-making process. The Sub-Committee also noted that a number of the representations referred to planning applications and the outcome of these applications. The Sub-Committee noted the Gambling Commission Guidance and in particular section 210(1) of the Gambling Act 2005 which provides that in making a decision in respect of an application, a licensing

authority should not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with law relating to planning or building. Whilst the Sub-Committee had a great deal of sympathy for the residents in this regard, the Sub-Committee was bound by the legislation and therefore it did not have regard to planning issues or the expected demand for the premises.

The objectors raised objections concerning criminal activity and anti-social behaviour and believed that an additional betting shop would encourage this type of behaviour. The Sub-Committee noted that the Police had not raised any concerns. Whilst the sub-committee noted the objectors' concerns, no empirical evidence that could be subject to scrutiny was produced. The Sub-Committee noted that the guidance produced by the Gambling Commission refers to disorder as being activity that is more serious and disruptive than mere nuisance. The Sub-Committee found no cogent evidence to suggest that the premises would be a source of crime and disorder or would be used to support crime. In addition, the Sub-Committee was satisfied that the conditions put forward by the police and agreed with the applicant were sufficiently robust in order to promote this licensing objective. The Sub-Committee in particular noted that the CCTV would also be monitoring outside areas including outside the front door and along the boundary of the premises.

Concerns were also raised for the protection of children and other vulnerable persons from being harmed or exploited by gambling. Residents were concerned that there were local schools, student accommodation and a Mental Health Trust "Recovery House" in the area and that as a result children and vulnerable persons would be exposed to gambling. During the course of the Hearing, representations were made by residents stating that the Recovery House and the schools had stated that they were concerned that a betting shop would be opening in the vicinity of their premises. The Sub-Committee however noted that no representations had been received from any school in the area or from Barnet, Enfield and Haringey Mental Health Trust in regard to the Recovery House. The Sub-Committee felt that the measures put forward by the applicant and its policies and procedures were appropriate to promote this licensing objective. In particular, the conditions proposed in relation to protecting children from harm were sufficiently robust to allay any concerns. The Sub-Committee also noted that the Safeguarding Children's Board had not made a representation. In relation to vulnerable persons, the Sub-Committee noted that the applicant had implemented additional measures including training procedures raising staff awareness to certain recognised behaviours which would be indicative of problem gamblers and that they worked with external agencies to ensure that the policies and procedures could be reassessed and improved.

The Sub-committee was concerned about the staffing arrangements proposed by the applicant. The applicant stated that there would be one member of staff on duty in the shop in the morning and that this would be increased to two in the afternoon according to how busy the shop was. The Sub-Committee was concerned that just one member of staff would not be in the position to adequately supervise the gambling premises and this could undermine the licensing objectives. This would be a factor to consider regarding the prevention of underage gambling but also in relation to vulnerable persons. The Sub-Committee was concerned that this risk could arise for instance if a member of staff took a break such as a comfort break. In addition, the Sub-Committee also felt that one member of staff could not adequately deal with an aggressive member of the public. In the circumstances, the Sub-Committee imposed a condition requiring there to be at least two members of staff on duty at all times. The Sub-Committee felt that this was appropriate in the promotion of the licensing objectives and in particular protecting

children and other vulnerable persons from being harmed or exploited by gambling and also preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

Concerns were also raised in relation to anti-social behaviour, amounting to disorder when leaving the premises. In order to allay these concerns, a condition was suggested namely that posters will be prominently displayed in the premises which advise customers that no anti-social behaviour will be tolerated. The applicant confirmed that he would be content with the inclusion of this condition. The Sub-Committee also noted resident concerns as to how litter would be addressed and welcomed the fact that the applicant stated that it would ensure that the area outside the premises would be kept free of litter and that the applicant would be supplying and emptying these bins.

Residents also expressed concern in relation to the current layout of the premises being contrary to the plan provided with the application. Residents stated that there was currently an additional exit point from the premises that was not reflected on the plan attached to the applicant's application. The licensing officer and the applicant both emphasised that if the application was granted, the layout of the premises would have to be in accordance with the plan. The licensing officer stressed that if the layout was any different from how it was portrayed in the plan, the applicant would be in breach of their licence. For the avoidance of doubt, the Sub-Committee reiterates that the layout of the premises must be in accordance with the plan that was attached to the application.

Having considered all of the representations of all the parties, the Sub-Committee discussed the matter and decided to grant the application. As well as the additional conditions that had already been agreed with the police, the Sub-Committee imposed the following additional conditions:

- (1) There is to be at least two members of staff on duty at all times.
- (2) Posters will be prominently displayed in the premises which advise customers that no anti-social behaviour will be tolerated.

The Sub-Committee was satisfied that the application, as granted with the additional conditions, was in the promotion of the licensing objectives. The Sub-Committee would like to emphasise that there is a review process under section 200 and 201 of the Gambling Act 2005 and, if there are any issues that arise following grant of the licence, the matter can be brought back before the Sub-Committee for consideration.

Right of Appeal

Any party aggrieved with the decision may appeal to Willesden Magistrates Court within 21 days of notification of this decision.

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

None.

The meeting finished at 4.40 pm