



Licensing Committee

Report title: Merkur Slots, 95 Rushey Green, London, SE6 4AF

Date: 21 June 2022

Key decision: No.

Class: Part 1.

Ward(s) affected: Rushey Green

Contributors: Community Services – Safer Communities Service, Head of Law.

Outline and recommendations

Determination of New Premises Licence Application submitted by Merkur Slots UK Ltd.

After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the Licensing Objectives.

Timeline of engagement and decision-making

The Application was advertised in accordance with regulation 12 of the Gambling Act 2005.

The last day for representations was 20th March 2022.

This matter must be heard as soon as is reasonably practicable after the expiry of any period for representations.

1. Summary

- 1.1. Merkur Slots UK Ltd. have applied for a new Premises Licence for the purposes of the following activity:

Bingo

Any Bingo Premises Licence is also also entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. For example, a premises with a total of 25 gaming

machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available.

Bingo facilities in bingo halls may not be offered between the hours of midnight and 9am. However, there are no restrictions on access to gaming machines in bingo halls.

- 1.2 Representations were received from three interested persons on the grounds of the licensing objectives:

To prevent gambling from being a source of Crime & Disorder

To protect children & other vulnerable persons from being harmed or exploited by gambling

These representations included an objection to the application by Cllr James Walsh, Ward Councillor for Rushey Green. The representations received from interested parties have been examined by Officers and are considered not to be vexatious or frivolous. These representations were all received within the specified time.

- 1.3 When considering this application, members are advised to have regard to the following points in the Council's Statement of Principles for Gambling 2019-22:

Protection of Children and young people: Section 10.2.1 of the Statement of Principles for Gambling states that Children and Young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C gaming machines are made available for use these must be separated from areas where children and young people are allowed, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV. The Gambling Commission's Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

Provision of Gaming Machines: Section 10.2.4 of the Statement of Principles for Gambling states that to avoid a situation where a premises holds a bingo Premises Licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied (in line with Gambling Commission Guidance 18.4) that bingo is regularly played in any premises for which a Premises Licence is issued and that the premises presentation is clearly that of a bingo premises and readily identifiable as such to any customer using the premises

Promotion of Licensing Objectives: Section 10.2.5 of the Statement of Principles for Gambling states that in determining applications for bingo premises, the Licensing Authority shall consider the following:

- proof of age schemes
- CCTV
- entry control system
- staff numbers
- staff training
- supervision of entrances/ machine areas
- whether children are permitted on the premises and, if so, how the operator intends to prevent them from playing bingo or being able to access adult only machine areas
- notices/ signage

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- opening hours
- the times and frequency of which bingo is offered
- whether bingo is offered by a caller or only electronically
- whether the premises are clearly identifiable as being licensed for the purposes of offering bingo facilities
- provision of responsible gambling information

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

2. Recommendations

2.1 After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the following 3 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, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.2 On considering an application for a premises licence (whether at a hearing or not) a licensing authority shall—

(a) grant it, or

(b) reject it.

2.3 Either party has a right of appeal to the Magistrates Court against a decision which should be submitted to the court within 21 days of the date of the decision letter.

3. Policy Context

3.1. Decisions by Members of the Licensing Committee should have regard to the Gambling Act 2005 and the promotion of the three Licensing Objectives at all times, which includes the following:

- (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- (b) ensuring that gambling is conducted in a fair and open way, and
- (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.2. Members should also have regard to the Licensing Authority's Statement of Gambling Policy 2019-22.

3.3. Decisions made will link in with the following objectives under the Council's Corporate Strategy – Building an Inclusive Local Economy and Building Safer Communities.

4. Financial implications

4.1. Applicants have the right of appeal against any decision by the Licensing Committee. Therefore there would likely be costs for the Authority in seeking legal support should an appeal be brought by the applicant.

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5. Legal implications

- 5.1 The Licensing Authority is a public authority under the Human Rights Act 1998. Therefore the licensing authority is required to act compatibly with the convention rights in the exercise of their functions. Article 6 (1) of the Convention provides that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial hearing established by law.
- 5.2 A Premises Licence is a possession for the purpose of the Human Rights Act 1998. The right to hold a licence is a qualified rather than an absolute right. Therefore the right to hold a licence may be interfered with if it affects the interests of local residents or others. Such interference may be justified if it is necessary and proportionate to promote the licensing objectives.

6. Equalities implications

- 6.1 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 6.3 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.
- 6.4 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 6.5 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical->

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[guidance](#)

6.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

6.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

7. Climate change and environmental implications

7.1. Any decision made by Members must fall in line with the Gambling Act 2005, to that end there are no climate change or environmental considerations.

8. Crime and disorder implications

8.1. Under the Gambling Act 2005, one of the 3 licensing objectives is preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

8.2. It is the a requirement of the Gambing Act 2005 that any decision made by the Licensing Committee must not negatively impact on the Licensing objectives.

9. Background papers

9.1. Application received 21st February 2022

9.2. Premises plan

9.3. Machine plan

9.4. Local Area Risk Assessment

9.5. Three Representations as served

10. Glossary

Term	Definition
Appeal	asking a court to overturn a lower court's decision. If the decision of a court is disputed it may be possible to ask a higher court to consider the case again by lodging an appeal.
Bingo	Bingo is not given a statutory definition in the Act although two types of bingo are commonly understood:

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Term	Definition
	<ul style="list-style-type: none"> • cash bingo, where the stakes paid make up the cash prizes that are won • prize bingo, where various forms of prizes are won, not directly related to the stakes paid. <p>Cash bingo is the main type of bingo played in commercial bingo premises. They also offer prize bingo, largely as games played in the intervals between main stage games. This means that only premises with a bingo premises licence, or a large casino premises licence issued under the Act (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms.</p>
Gaming & game of chance	<p>In the Gambling Act 2005 “gaming” means playing a game of chance for a prize.</p> <p>A “game of chance”—</p> <p>(a) includes—</p> <ul style="list-style-type: none"> - a game that involves both an element of chance and an element of skill, - a game that involves an element of chance that can be eliminated by superlative skill, and - a game that is presented as involving an element of chance, but <p>(b) does not include a sport.</p>
Licence	an authority to do something.
Licensee	the holder of a licence to do something.
Licensing Authority	<p>The Council (London Borough of Lewisham)</p> <p>Under section 2 of the 2005 Act, the licensing authority’s area is the area for which the authority acts.</p>
Licence Objectives	<p>Under section 1 of the 2005 Act the Licensing Authority must promote the following 3 objectives</p> <ul style="list-style-type: none"> • 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, and • protecting children and other vulnerable persons from being harmed or exploited by gambling.

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Term	Definition
Interested Person	<p>A person who lives in the vicinity of the premises A body who represents the persons who live in that vicinity A person involved in a business in that vicinity A body representing businesses in that vicinity An elected member of the council</p>
Relevant Representation	<p>A representation that is specific to the premises in question, related to the four licensing objectives and/or the local licensing policy.</p>
Responsible Authorities	<p>Public bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:</p> <ul style="list-style-type: none"> • LBL Childrens Services • The Gambling Commission • HM Revenue and Customers • LBL Licensing Authority • LBL Planning Authority • Environmental Protection (noise) • London Fire Brigade

11. Report author and contact

- 11.1. Richard Lockett, Safer Communities Service Senior Officer for Licensing
richard.lockett@lewisham.gov.uk

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