



Licensing Committee

Report title: Merkur Slots 53 Sydenham Road SE26 5EY

Date: 14 May 2024

Key decision: No.

Class: Part 1.

Ward(s) affected: Sydenham

Contributors: Community Services – Safer Communities Service

Outline and recommendations

Determination of new premises licence application submitted by Merkur Slots UK Limited (previously Cashino).

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 (Premises Licences and Provisional Statements) Regulations 2007.

The last day for representations was **15 February 2024**.

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 Limited have applied for a new premises licence for the purposes of "Bingo".
- 1.2. The application was advertised in accordance with regulations (premises notice and the Newspaper advert).

- 1.3. Seventy Nine (79) representations were received from interested persons on the grounds of the following 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.
- 1.4. 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.
- 1.5. The responsible authorities were notified of the application in accordance with regulations. A representation was received by the Licensing Authority, with no objection to the application.

2. Recommendations

- 2.1. After having regard to all documentary and other information in respect of this application, Members must take such steps as they consider appropriate to promote the three licensing objectives which 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, and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.2. In considering an application for a premises licence the Act requires that a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think the application is:
 - in accordance with the relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives
 - in accordance with the Council's Gambling Policy.
- 2.3. The Act states that in determining whether or not to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities it is proposed to provide.
- 2.4. 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.
- 2.5. If the Licensing Committee grants the application it must:
 - grant the premises licence subject to the mandatory conditions (pursuant to section 167 of the Act) **AND** the default conditions (pursuant to section 168 of the Act).

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- 2.6. However, the Licensing Committee may:
- exclude a condition that would otherwise be attached as a default condition AND/OR
 - attach an individual condition.

2.7. All parties to the hearing 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.

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.

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.

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- 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-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 to whom they apply. 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

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8.2. It is the a requirement of the Gambling 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 18 January 2024

9.2. Premises plan

9.3. Local Area Risk Assessment

9.4. Operational Standards

9.5. Working Together

9.6. Representations as served x 79

9.7. Mandatory and Default conditions

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.
Licence	an authority to do something.
Licensee	the holder of a licence to do something.
Licensing Authority	The Council (London Borough of Lewisham) Under section 2 of the 2005 Act, the licensing authority's area is the area for which the authority acts.
Licence Objectives	Under section 1 of the 2005 Act the Licensing Authority must promote the following three objectives <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 Children’s 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. Angela Mullin-Murrell – Safer Communities Officer – Licensing

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