



Licensing Committee

Report title: Palace Amusements, 70 Deptford High Street, SE8 4RT

Date: 6 October 2020

Key decision: No.

Class: Part 1.

Ward(s) affected: New Cross

Contributors: Community Services – Crime, Enforcement & Regulation Service, Head of Law.

Outline and recommendations

Determination of New Premises Licence Application submitted by East Kent Leasing 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 25 August 2020.

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

1. Summary

1.1. East Kent Leasing Ltd have applied for a new Premises Licence for the purposes of the following activity:

Adult Gaming Centre

24 hours 7 days a week

1.2. Representations were received from four interested persons on the grounds of all the

licensing objectives. 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. Conditions were agreed between the applicant, Police and Crime, Enforcement & Regulation Service.

2. Recommendations

- 2.1 After having regard to all the representations heard, Members must take such steps as they consider appropriate to promote the prevention of crime and disorder and public nuisance.
- 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.

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-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 and Risk Assessment received 29 July 2020
- 9.2. Representations as served.

10. Glossary

Term	Definition
Adult Gaming Centre	Adult gaming centres, often called arcades, allows you to offer an unlimited number of category C and D gaming machines and up to 20% of your total number of machines, can be of category B3 or B4. The premises is for those aged 18 and over only.
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.
Gaming & game of chance	In the Gambling Act 2005 "gaming" means playing a game of chance for a prize. A "game of chance"— (a)includes— - 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 (b)does not include a sport.

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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 3 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.
Interested Person	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
Relevant Representation	A representation that is specific to the premises in question, related to the four licensing objectives and/or the local licensing policy.
Responsible Authorities	Public bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows: <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

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