

Licensing Panel (Gambling Act 2005 Functions)

Agenda Item

Brighton & Hove City Council

Subject:	Application for a New Gambling Betting Licence under the Gambling Act 2005		
Premises:	William Hill, 9-10 St James's Street, Brighton, BN2 1RS		
Applicant:	William Hill Organisation Limited Greenside House, 50 Station Road, Wood Green, London N22 7TP		
Date of Meeting:	23rd August 2013		
Report of:	Head of Regulatory Services		
Contact Officer:	Name:	Jim Whitelegg	Tel: (01273) 296051
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Wards Affected:	Queens Park		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 To determine an application for a **New** Gambling Betting Licence under the Gambling Act 2005 for **William Hill**.

2. RECOMMENDATIONS:

2.1 To determine an application for a **New** Gambling Licence under the Gambling Act 2005 for **William Hill**.

2.2. The application is for:

A **New** Gambling Betting Licence under the Gambling Act 2005.

2.3 An application has been made by William Hill Organisation Ltd for a new Betting premises licence for 9-10 St James's Street, Brighton, BN2 1RE.

2.4 A copy of the application form is attached as Appendix A. The applicant has not asked for the statutory default condition concerning the times of operation of 7am to 10 pm on each day of the week to be removed so these are applicable.

2.5 Copies of the following plans are attached as Appendix B:

- Plan of premises

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Representations received

Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:

3.2 One representation was received. It was received from a local resident (Appendix C).

3.3 Representation received had concerns relating to:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling (it should be noted that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling).

4. CONSULTATION

Commentary on gambling policy

4.1 The following extracts from Brighton & Hove City Council Statement of Gambling Policy are considered relevant to this application and numbered as they appear in the policy:

General

1. Introduction

1.1 This statement has been prepared in accordance with the provisions of the Gambling Act 2005. Its purpose is to promote the gambling objectives, give weight to views of consultees listed below and set out a general approach

to making gambling decisions. Brighton & Hove City Council as the licensing authority in relation to gambling must carry out its functions with a view to promoting the gambling objectives and this statement is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this Policy covers the following:

- Avoidance of unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation
- Demand for gaming premises
- Principle to be applied in exercising functions under Section 15 of the Act with respect to inspection of premises and the power under Section 346 of the Act to institute criminal proceedings
- Principle to be applied to determine whether a person is an interested party in relation to a premises licence, or in relation to an application for or in respect of a premises licence
- Consideration of applications
- Information exchange
- Statement of principles

1.2 The gambling objectives 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.

1.3 The statutory consultees are:-

- (a) the chief officer of police for the authority's area;
- (b) such persons as the licensing authority considers to represent the interests of persons carrying on gambling businesses in the authority's area;
- (c) such persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

1.5 This policy will come into force on 1 January 2013 by resolution of Full Council in December 2012 and will be reviewed and published at least every three years.

The review process will be undertaken using the same principles as the initial consultation process. The policy will also be under review in the interim periods; any revisions required by either process will also be the subject of consultation. It is also subject to guidance issued by the Government including any issued after the date of publication of this Statement.

- 1.12 Nothing in this policy shall undermine any person from applying for a variety of permissions under the Act and appropriate weight will be given to all relevant representations. Such representations will not include those that are frivolous or vexatious.

1.13 Human Rights

In considering applications, and taking enforcement action, licensing authorities are subject to The Human Rights Act and in particular the following relevant provisions of the European Convention on Human Rights:-

- Article 1, Protocol 1 - peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest.
- Article 6 - right to a fair hearing.
- Article 8 - respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life; and
- Article 10 – right to freedom of expression.

Licensing Authorities should be aware that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being met.

2 Fundamental Principles

2.1 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

- 2.2 Applicants for premises licences will have to hold an operating licence from the Gambling Commission before the premises licence can be issued. The licensing authority will not need to investigate the suitability of an applicant since the Commission will have already done so for both operating and personal licences.
- 2.3 If, during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.
- 2.4 Licensing authorities will need to consider the location of premises in the context of this objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems e.g. with organised crime, the authority should think about what controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence. Section 169 of the

Act allows the authority to impose conditions to prevent disorder.

- 2.5 Consideration may be given to imposition of conditions concerning:
- Security and door supervision – guarding premises against unauthorised access or occupation, or against outbreaks of disorder or against damage may only be undertaken by Security Industry Authority licensed personnel.
 - As set by regulation.
- 2.6 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

2.10 Protecting children and other vulnerable persons from being harmed or exploited by gambling

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises that are adult-only environments. Children must be protected from being “harmed or exploited by gambling” which in practice means preventing them from taking part in or being in close proximity to gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

- 2.11 Specific measures to prevent this may include:- a) Supervision of entrances b) Segregation of gambling from areas frequented by children c) Supervision of gaming machines in non-adult gambling specific premises d) Gaming machines in betting shops should not be visible from outside the premises e) Enhanced CRB checks may be required for all applicants in relation to Family Entertainment Centres and declaration from an applicant that he or she has not been convicted of a relevant offence
These considerations will be particularly relevant on tracks (where children will be permitted in the betting areas on race-days)
- 2.12 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. “Vulnerable persons” will not be defined but for the purposes of this policy the assumption is that this group includes people who from a common sense perspective, a provider of gambling services would be expected to assess as unlikely to be able to make informed or balanced decisions about gambling, due to a learning disability, mental health problem, a known compulsion to gamble or the effects of alcohol or drugs.
Operators should make information publicly available via leaflets etc about organisations that can provide advice and support, both in relation to gambling itself and to debt e.g. GamCare, Gamblers Anonymous, Gordon House Association, National Debtline, local Citizens Advice Bureaux and

independent advice agencies.

- 2.13 Consideration must be given, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations will need to be balanced against the authority's objective to aim to permit the use of premises for gambling.
- 2.14 The licensing authority recognises the Children and Young People's Trust as being competent to advise on matters relating to the protection of children from harm. Applicants shall copy their applications to: Children and Young People's Trust Assistant Director (Children's Social Care) King's House, Hove, BN3 2LS in its capacity as the responsible authority.
- 2.16 Consideration may be given to imposing conditions concerning
- Installation of cash dispensers (ATMs) on premises (e.g. location)
 - As set by regulation.
- 2.17 Bookmakers shops: While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.

3. Avoidance of unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation

- 3.1 This policy shall avoid unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation. Where appropriate, matters for consideration in gambling applications will not duplicate matters considered as part of any planning application.

4. Demand for gaming premises

- 4.1 Unmet demand is not a criterion for a licensing authority in considering an application for a premises licence under the Gambling Act. Each application must be considered on its merits without regard to demand.
- 4.2 The licensing authority may comment on the location of premises in so far as the location relates to the licensing objectives. The general principals that will be applied when determining whether the location of proposed gambling premises is acceptable (with or without conditions) will reflect the licensing objectives. So for example, the authority will consider very carefully whether applications for premises licences in respect of certain gambling premises located very close to a school, or a centre for gambling addicts should be granted in light of the third licensing objective. (Many betting offices are located near schools or in residential areas but under

18's are not permitted on the premises. The location of racecourses will not have altered and cannot be transferred to another location). However, each application will be considered on its merits and will depend on the type of gambling that it is proposed will be offered in the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account.

5. Interested parties

- 5.1 Section 158 of the Act defines interested parties as persons who: a) live sufficiently close to the premises to be likely to be affected by the authorised activities b) have business interests that might be affected by the authorised activities; or c) represent persons who satisfy a) or b).
- 5.2 Persons who fall into c) above may include trade associations, trade unions, residents associations and tenants associations, and ward councillors or MPs.
- 5.3 Whether a person is an interested party with regard to particular premises will be considered on a case-by-case basis, judging each on its merits. The size of the premises and the activities taking place will be taken into account. Larger premises may affect people over a broader geographical area compared to smaller premises offering similar facilities.

6 Principle to be applied in exercising functions under Part 15 of the Act with respect to inspection of premises and the power under Section 346 of the Act to institute criminal proceedings

- 6.1 The Enforcement Concordat (now called the Regulatory Compliance Code) will be accepted as best practice. The Better Regulation Executive and Hampton review of regulatory inspections and enforcement will be used as models, as follows:
 - Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - Consistent: rules and standards must be joined up and implemented fairly;
 - Transparent: regulators should be open, and keep regulations simple and user friendly; and
 - Targeted: regulation should be focused on the problem, and minimise side effects.

8 Information Exchange and Integration of Strategies

- 8.1 The Commission may require authorities to provide information about applications covered by the gambling authority. This information will be provided in the format requested by the Commission.
- 8.2 This Policy will follow corporate guidelines regarding data protection and

freedom of information. Where valid representations are received, a copy is sent to the applicant in order to facilitate discussions on the matters raised. **Please note:** *names and addresses of those making representations will usually be disclosed to applicants.*

- 8.3 The gambling authority shall secure the proper integration of this policy with local crime prevention, planning, tourism and cultural strategies by:-
- Liaising and consulting with the Sussex Police, HM Revenue & Customs and the Community Safety Strategy representatives and following the guidance in community safety and crime and disorder strategy,
 - Liaising and consulting with the planning authority,
 - Liaising and consulting with tourism, stakeholder groups, business groups such as the City Centre Business Forum and the economic development functions for the Council.
 - Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
- 8.4 The Statement of Gambling Policy will support the aims of the tourism strategy recognising the benefits for the tourism economy by creating a safer and more attractive City centre and improving competitiveness with other European Cities.
- 8.5 The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area, the employment situation of the area and the need for new investment and employment where appropriate to ensure that it considers these matters.

9. Standard Conditions

Appendix 2 (Section 169 of the Act) contains a pool of model conditions that may be imposed or excluded by the licensing authority. The Act provides that conditions may be attached to premises licences. Conditions may be attached in a number of ways:

- They may be attached automatically, having been set out on the face of the Act including mandatory and default conditions from the Secretary of State, or
- They may be attached to premises licences by licensing authorities. The authority should take decisions on individual conditions on a case-by-case basis and choose suitable and appropriate conditions to suit the specific needs of an individual premises' operation.

10. Enforcement

- 10.1 The enforcement of gambling law and the inspection of licensed premises will be detailed in the Protocol between the Gambling Commission, Brighton & Hove City Council and Sussex Police. This protocol will monitor compliance with the provisions of the Act and with licence conditions, and the investigation of suspected offences.
- 10.2 In general, the approach of the Commission will be that the authority which issues a licence or permit should take the lead in ensuring compliance with the licence and any conditions attached to it, including compliance with relevant codes of practice.
- 10.3 The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

The Gambling Act 2005 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted: Jeff Coates

Date: 08/08/13

5.2 Legal Implications:

Section 153 of the Gambling Act provides that in exercising its functions under Part 8 of the Act (premises licensing and provisional statements), a licensing authority shall aim to permit the use of premises for gambling in so far as it thinks it is:

(a) in accordance with any relevant code of practice under section 24 (i.e. such as that found within the Commission's Licence Conditions and Codes of Practice (LCCP))

(b) in accordance with any relevant guidance issued by the Commission under section 25

(c) reasonably consistent with the licensing objectives (subject to (a) and (b) above),

and

(d) in accordance with the Licensing Authority Statement of Policy (subject to (a) and (c) above).

5.3 Equalities Implications:

Diversity is valued and strong, safe communities are vital to future prosperity.

5.4 Crime & Disorder Implications:

Gambling policy aims to prevent crime and disorder and protect public safety.

5.5 Risk and Opportunity Management Implications:

Gambling is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

5.6 Corporate / Citywide Implications:

The success of the city's tourism strategy requires a safe, attractive city centre to improve competitiveness. The Act may significantly change night time economy

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – The Application
2. Appendix B – Plan of Premises
3. Appendix C – Representation
4. Appendix D – Map of area

Documents in Members' Rooms

1. Brighton & Hove City Council, Gambling Act 2005: Statement of Gambling Policy 2013.

Background Documents

1. Brighton & Hove City Council, Gambling Act 2005: Statement of Gambling Policy 2013.