

Report to: Licensing Sub-Committee.

Date of Meeting: 14th October 2021

**Report Title: Application for a Gambling Premises licence, with an objection.
Merkur Slots, 40-41 Queens Road, Hastings TN34 1RE.**

Report By: Mike Hepworth, Assistant Director, Environment and Place.

Purpose of Report

To consider the application for a new premises licence as a result one representation received from an Interested party.

Recommendation(s)

Having regard to the application and the relevant representations, Members are invited to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps available are:-

- a) Grant the licence**
- b) Refuse the licence application**
- c) Grant the licence with conditions**

Reasons for Recommendations

The Gambling Act 2005 requires a licensing sub-committee to consider such applications when appropriate representations have been made. The decision reached at the sub-committee can be subject to appeal by any party to the hearing that is aggrieved by the decision.

Introduction

1.0 Background

1.1 Sections 159-161 of the Gambling Act 2005 require that:

A person may apply to a licensing authority for a premises licence to be issued to him authorising the use of premises to carry on an activity listed in section 37(1).

An application may be made only by a person who has a right to occupy the premises to which the application relates.

An application must—

- (a) be made in the prescribed form and manner,
- (b) contain or be accompanied by the prescribed information or documents, and
- (c) be accompanied by the prescribed fee.

The applicant must also :

- (a) publish notice of his application;
- (b) give notice of his application to the responsible authorities in relation to the premises;
- (c) give notice of his application to other persons.

Where an application is made to a licensing authority for a premises licence, an interested party or responsible authority in relation to the premises may make representations in writing to the licensing authority.

Representations under subsection (1) must be made within such period as the Secretary of State shall prescribe by regulations.

1.2 Section 162(1) of the Gambling Act 2005 states that the Authority must hold a hearing if:-

- a) an interested party or responsible authority has made (and not withdrawn) representations about the application under section 161;
- b) the authority propose to attach a condition to the licence under section 169(1)(a); or
- c) the authority propose to exclude under section 169(1)(b) a condition that would otherwise be attached to the licence under section 168.

1.3 Section 163(1) of the Gambling Act 2005 states that on considering an application for a premises licence a licensing authority shall:-

- a) Grant it, or
- b) Reject it

1.4 Section 169 of the Gambling Act 2005 states that where a licensing authority issues a premises licence they may:-

- a) Attach a condition to the licence.
- b) Exclude a condition that would otherwise be attached to the licence by virtue of section 168.
- c) A condition attached to the licence under subsection (1)(a) may, in particular, address a matter by a condition excluded under subsection (1)(b).
- d) A condition attached to the licence under subsection (1)(a) may apply in relation to the premises generally or only in relation to a specified part of the premises.
- e) A licensing authority may not attach a condition to a premises licence, which prevents compliance with a condition of the operating licence, which authorises the

holder to carry out the activity in respect of which the premises licence is granted

2.0 Application

2.1 On 29/04/2021 a Bingo Premises application was received from Cashino Gaming Limited trading as Merkur Slots at 40-41 Queens Road, Hastings TN34 1RE. A copy of this application is attached at **Appendix 1**.

2.2 Cashino Gaming Limited hold operating licence number 003266-N-103444 issued by the Gambling Commission entitling them to provide bingo games from a premises open to the public. This was confirmed online at the Gambling Commission website.

2.4 On the 5th May 2021 a planning application was submitted to change the use of the existing premises at 40-41 Queens Rd to an adult gaming centre. At the time of writing this report this application has not yet been granted. This matter will be dealt with under the relevant planning and building control regulations and will not form part of the consideration of the premises licence.

3.0 Consultation

3.1 The Gambling Act 2005 requires an applicant to advertise their application once in a local newspaper and on the premises by way of an approved notice for 28 days to allow for representations to be made, this has been done.

3.2 The application for the licence has been properly made and consultation carried out as required by the Gambling Act.

3.3 Copies of the application are required to be served on a list of responsible authorities at the same time as placing the application before the local authority, this has been done.

4.0 Representations

Responsible Authorities

4.1 No representations were received from any of the responsible authorities identified in the Gambling Act 2005 and associated regulations.

Interested Parties

4.2 As a result of this consultation process a representation has been received from an Interested Party. This representation is attached at **Appendix 2**.

4.3 A copy of the representation has been supplied to the applicant's agent at their request

4.4 As a representation has been received the Council must hold a hearing to determine the application pursuant to Section 162 of the Gambling Act 2005 as confirmed above.

5.0 Legal Considerations

4.1 Members are provided with policy guidelines to assist in the decision making process (Appendix 3).

4.2 In determining the application the Panel must have due regard to the Gambling Commission Guidance to Local Authorities (5th Edition, September 2015) issued pursuant to s25(1) of the Gambling Act 2005. In addition, the Panel must, in the exercise of its decision making powers, apply the principles set out in the Council's Statement of Principles 2019-2022 Gambling Act 2005 (prepared pursuant to s349 Gambling Act 2005).

4.3 If a relevant representation to an application is made by either a responsible authority or an interested party and no compromise can be reached between the parties, a hearing must be held.

4.4 There are three licensing objectives under the Gambling Act 2005:-

- 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.

4.5 Under section 153 Gambling Act 2005 the Licensing Authority shall aim to permit the use of premises for gambling in so far as the authority thinks it:-

- a) In accordance with any relevant codes of practice issued by the Gambling Commission.
- b) In accordance with guidance issued by the Gambling Commission.
- c) Reasonably consistent with the licensing objectives.
- d) In accordance with the Councils Statement of Policy.

4.6 Human rights considerations must be taken into account fully in balancing licensing issues, in particular, Article 1 of the first protocol and article 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property. Holding a premises licence would be considered a possession. Article 8 relates to the right to respect for private and family life, home and correspondence. These are however qualified rights and can be deprived of "in the public interest". Interference is permissible if what is done:-

- a) Has its basis in law;
- b) Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
- c) Is proportionate to the aims being pursued; and,
- d) Is related to the prevention of crime; or, the protection of public order or health.

If members choose to refuse the application in full or in part, the applicant has a right of appeal to the Magistrates' Court. If members choose to grant the

application, there is a right of appeal to the Magistrates' Court for persons who made representations in relation to the application and the applicant.

5.0 Options

5.1 Having regard to the application and the relevant representations, Members are invited to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps available are:-

- a) Grant the licence
- b) Refuse the licence application
- c) Grant the licence with conditions

Wards Affected

Castle Ward.

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness
Crime and Fear of Crime (Section 17 Crime and Disorder Act 1998)
Risk Management
Environmental Issues
Economic/Financial Implications
Human Rights Act
Organisational Consequences
Local People's Views
Anti-Poverty

Additional Information

Appendix 1. Application pack.
Appendix 2. Letter of objection
Appendix 3 HBC Gambling Policy

Officer to Contact

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