



THE GODDEN GAMING ORGANISATION

Licensing Department,
4th Floor, Aquila House,
Breeds Place,
Hastings,
East Sussex TN34 3UY

27th May 2021

Dear Sirs,

Representation to a licence by Merkur Slots, 40-41 Queens Road, Hastings TN34 1RE (Merkur Slots UK Limited).

Representation Outline

1. This representation is made on behalf of East Kent Leasing Limited to the application for a Premises Licence under the Gambling Act 2005 to permit bingo at the premises. East Kent Leasing Limited operates an Adult Gaming Centre premises at 29-31 White Rock Hastings TN34 1JY.

East Kent Leasing Limited is an "Interested Party" in terms of S 158(b) of the Act, paragraph 8.14 and 8.15 of the Gambling Commission's Guidance to Local Authorities April 2021 ("GC's Guidance") and the definition of that term in the LA's SoP. In the unlikely event of our status as an "Interested Party" being disputed, I would be happy to provide further explanation. As will become apparent, while our business will be affected in terms of competition, its objection to the above application is not based on "demand" but on the potential impact of the proposal on (and the LA's obligation and ability to consider the application against) the Licensing Objectives. Our objection is therefore admissible, relevant and cannot be said to be vexatious or frivolous.

For the purposes of paragraphs 8.14 – 8.15 of the GC's Guidance and part 1.11 of the LA's SoLP we confirm that: -

The size of the two sets of premises appears to be similar;

They share or will share the same 'catchment', that is, how far people travel or will travel to visit the premises (they are within walking distance of one another in Hastings Town Centre and player catchments for the venue are nigh identical); so

The person making this representation has business interests in that catchment area that might be affected.

Location and Application Details

2. The applicant applies for a Bingo premises licence under the Gambling Act 2005 for 40-41 Queens Road, Hastings TN34 1RE. The location is a prominent retail street in Hastings Town Centre opposite Priory Meadow Shopping Centre. The location is also away from the night-time economy areas of Hastings. There are a considerable number of betting shops also in the vicinity. As a predominantly retail area, the premises have suffered over the last 12-24 months and the objectors are concerned about a rise in crime, disorder and general public disturbance in the area.

3. There are difficulties later in an evening as the area suffers from anti-social behaviour and congregation of those who commit anti-social behaviour. It is noted that the applicant wishes to open the premises 24/7 and with single manning. This is not suitable or appropriate for this location.
4. A recent planning application for the change of use of the site (5 May) has been registered, albeit for a change of use to Adult Gaming Centre. The license application, however, is for the provision of a Bingo premises license. It appears to be a tactic that the applicant has made an application for change of use to an AGC in planning terms but has made an application for a Bingo premises licence.
5. The application is made for a Bingo premises licence so as to allow for 24/7 hour opening for slot machines, and automated bingo. Whilst Bingo will be provided at the premises, presumably electronically, this can only take place between the hours of 09:00 to 00:00. The machines are capable of being used 24/7. It appears to be a tactic that in relation to applying for planning permission for one use, whilst applying for a premises for a different use under the Gambling Act 2005.

Relevant Legislation

6. Section 153 Principles to be applied

- (1) In exercising their functions under this Part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—
 - (a) in accordance with any relevant code of practice under section 24,
 - (b) in accordance with any relevant guidance issued by the Commission under section 25,
 - (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
 - (d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).
- (2) In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

The licensing objectives

7. In this Act a reference to the licensing objectives is a reference to the objectives of—
 - (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.

Gambling Commission Guidance to Licensing Authorities -

Part 5: Principles to be Applied by Licensing Authorities

8. Objective 1 : Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

5.3 Among other matters, licensing authorities may need to consider the location of premises in the context of this licensing objective. For example, in considering an application for a premises licence or permit that is in an area noted for particular problems with disorder, organised criminal activity etc. the licensing authority should think about what,

if any, controls might be appropriate to prevent those premises being associated with or used to support crime. That might include conditions on the premises licence, such as a requirement for door supervisors. The requirement for conditions might be determined by the operator's own risk assessment or the local area profile carried out by the licensing authority, as detailed in Part 6.

5.4 A licensing authority will need to consider questions raised by the location of gambling premises when:

- formulating its statement of licensing policy
- receiving relevant representations to an application
- dealing with applications as a responsible authority in its own right
- considering applications before it.

5.5 In the context of gambling premises licences, licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor.

5.6 Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences.

5.8 In relation to preventing disorder, licensing authorities have the ability under s.169 of the Act to attach additional conditions to premises licences, and are entitled to include a requirement for door supervision, as provided for in s.178 of the Act. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence. Further information on conditions on premises licences can be found in Part 9 of this Guidance.

9. Section 153 principles

5.20 Whilst there is a presumption in favour of permitting the relevant premises to be used for gambling, the licensing authority may not do so unless satisfied that such use would be in accordance with this Guidance, any relevant Commission code of practice, its own statement of policy, and the licensing objectives.

10. Local Risk Assessments

6.41 The Commission's Licence Conditions and Codes of Practice (LCCP) which were revised and published in February 2015, formalise the need for operators to consider local risks.

6.42 Social responsibility (SR) code 10.1.1 requires all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's statement of policy.

6.43 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- when applying for a variation of a premises licence
- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of policy
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.

11. Premises

7.4 By distinguishing between premises types, the Act makes it clear that the gambling activity of the premises should be linked to the premises described. Thus, in a bingo premises, the gambling activity should be bingo, with gaming machines as an ancillary offer on the premises.

12. Hastings Borough Council - Statement of Policy and Principles under the Gambling Act 2005 (2019- 2022)

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

3.2.1 The Gambling Commission plays a lead role in preventing gambling from being a source of crime or disorder.

3.2.2 The Licensing Authority places importance on the prevention of crime and disorder, and will fulfil its duty under section 17 of the Crime and Disorder Act 1998. This binds the Licensing Authority to exercise its licensing powers with due regard to the need to do all that it reasonably can to prevent crime and disorder in its area. A high standard of control is therefore expected to be exercised over licensed premises.

3.2.3 The Licensing Authority will pay attention to the proposed location of gambling premises in terms of this licensing objective and possible conditions. For example, where an area has known high levels of crime and disorder, this authority will consider carefully whether gambling premises are suitable to be located there at all, or whether conditions need to be attached such as for the provision of door supervisors or for specified measures to be in place to prevent crime and disorder on the premises.

3.2.4 The Licensing Authority will, when determining applications, consider whether the grant of a premises licence is likely to result in an increase in crime and disorder. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see or hear it, so as to make that distinction. Issues of nuisance cannot be addressed via the provisions of the Act. The Gambling Commission has stated that licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance.

3.2.5 Where the premises has been associated with drug dealing, or the possession of weapons on the premises, this may give rise to particular concerns as to whether it will be appropriate to allow the admission of children to the premises during some or all of its hours of operation. In such circumstances applicants may be required to demonstrate that these matters have been addressed.

3.2.6 Applicants are therefore required to demonstrate to the satisfaction of the Licensing Authority, in consultation with the police, how they intend to satisfy this licensing objective. Applicants are encouraged to discuss their crime prevention procedures with licensing officers and the police before making a formal application, addressing how at an operational and local level they will implement their measures to prevent crime and disorder on the premises.

3.2.7 Examples of the matters that are likely to be considered by the Licensing Authority when determining an application include, where appropriate;

- the design and layout of the premises
- physical security features installed in the premises; this may include matters such as the position of cash registers or the standard of CCTV that is installed
- training given to staff in crime prevention measures appropriate to the premises

- where premises are subject to age restrictions, the procedures in place to conduct age verification checks
- the likelihood of any violence, public disorder or policing problem if the licence is granted.

Conclusions

1. From the information provided by the applicant, it is clear that Merkur Slots is a machine led environment. It is not believed that bingo will be the primary activity. Its main function is to create as many category B3 machines as is possible. The LA's SoLP states at 6.3 *"...Applicants for a new premises licence , or wishing to vary an existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed."*
Given the presence of the aforementioned planning application, the Applicant is anything but 'clear' that the premises are intended to be used for the primary gambling activity proposed. No other plans or trading information is submitted to demonstrate otherwise.
2. The applicant seeks to rely on a generic Merkur operating style and specific localised issues are not satisfactorily dealt with. The risk assessments have not been properly adjusted to reflect local conditions, local crime statistics, the particularly high rate of antisocial behaviour and crime recorded in the Queens Road area and makes no reference to the location in relation to the amount of vulnerable/homeless people on the streets in this area of town.
3. Of major concern is the issue of single manning at the premises. This in conjunction with the premises opening potentially for 24 hours a day 7 days a week is of real concern. This is compounded by the fact that there are no conditions being offered in relation to the application. It is difficult for the authority to be able to assess whether the premises licence holder will be able to protect children and vulnerable persons from harm or being exploited by gambling from the information that has been provided. The objectors feel it would be impossible at periods of single manning for these protections to be offered.
4. It is impossible from the information that has been provided to see whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling. The plans also fail to demonstrate the location of CCTV and other features as outlined in the LA SoLP paragraph 3.27
5. For the above reasons we invite the refusal of the application.

I look forward to hearing from you with a view to settling a convenient time and date for the hearing.

Yours faithfully,



Jordan Godden
Commercial Director