

REPORT TO:	LICENSING SUB COMMITTEE Thursday 22 October 2020
SUBJECT:	GAMBLING ACT 2005 – APPLICATION FOR PREMISES LICENCE – ADULT GAMING CENTRE
LEAD OFFICER:	Executive Director, Place Department
CABINET MEMBER:	Councillor Hamida Ali, Cabinet Member for Safer Croydon & Communities
WARDS:	Crystal Palace and Upper Norwood
CORPORATE PRIORITY/POLICY CONTEXT: This report is specific to this application and has no implications on the Council’s Corporate Policies.	
FINANCIAL SUMMARY: This application is being processed as part of normal duties carried out by the Department with no additional costs involved.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

For general release

1. RECOMMENDATIONS

- 1.1 The Sub-Committee is asked to determine whether to grant the application for an Adult Gaming Centre Premises Licence at 82 Westow Hill, Upper Norwood, SE19 1SB.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to advise the Sub-Committee that an application has been received for a Premises Licence, (Adult Gaming Centre) under the Gambling Act 2005 (“the Act”). The application has drawn representations from interested parties, therefore a hearing is required.

3. DETAIL

- 3.1 The applicant and those making representations have been notified of the hearing in accordance with the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (“the Regulations”). Information to accompany the notice of hearing was provided to the applicant and the interested parties in accordance with the Regulations.

3.2 Appendix A to this report provides details of the application.

4. FINANCIAL CONSIDERATIONS

4.1 Revenue and Capital consequences of report recommendations

There are no direct financial implications associated with this report, subject to the risks at 4.2 & 4.3. This application is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

4.2 The effect of the decision

The decision of the Sub-Committee may be subject to appeal and/or Judicial Review

4.3 Risks

An appeal against a decision of the Sub-Committee or a Judicial Review of the application process may present financial risks to the Council with regard to any award of costs against it.

4.4 Options

The options available are: to grant the application, to vary the application, with or without further conditions, or to refuse the application.

4.5 Savings/ future efficiencies

None identified.

4.6 (Approved by: Flora Osiyemi, Head of Finance Place, Residents & Gateway)

6. COMMENTS OF THE SOLICITOR TO THE COUNCIL

6.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that Section 153 of the Gambling Act provides that the sub-committee must aim to permit the use of premises for gambling (and therefore grant applications) in so far as they think they are in accordance with any relevant code of practice under section 24 of the Act, in accordance with any relevant guidance issued by the Gambling Commission under section 25 of the Act, are reasonably consistent with the licensing objectives and are in accordance with the Council's Statement of Principles.

6.2 The Sub-committee must consider any relevant representations received from interested parties or responsible authorities and determine whether to grant the application, in so far as it is reasonably consistent with the licensing objectives and is in accordance with the Council's Statement of Principles, any relevant code of practice under section 24 of the Act and in accordance with any relevant guidance issued by the Gambling Commission under section 25 of the Act.

6.3 Where the Sub-Committee is minded to grant the application it is necessary to

comply with the provisions set out in The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 which specify the mandatory and default conditions which will be applicable to the application, depending on the type of licence applied for.

- 6.4 (Approved by Sandra Herbert, Head of Litigation and Corporate law on behalf of the Director of Law and Governance and Deputy Monitoring Officer).

7. HUMAN RESOURCES IMPACT

- 7.1 The Human Resources impact of supporting the Licensing Hearings will be contained within the budgeted establishments of the Democratic and Legal Services and Licensing Teams.
- 7.2 (Approved for and on behalf of Sue Moorman, HR Director, by Jennifer Sankar, Head of HR Place)

8. EQUALITIES IMPACT

- 8.1 The arrangements for the Licensing Hearings seek to ensure that all applicants and other interested parties receive a fair hearing and that the process is accessible to all groups within the community.

9. ENVIRONMENTAL AND DESIGN IMPACT

- 9.1 The effective implementation of the Gambling Act 2005 will contribute to an improved environment for local residents and other stakeholders.

10. LICENSING OBJECTIVES IMPACT

- 10.1 The licensing objectives contained in the Act 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 gambling.
- 10.2 Officers comments and relevant representations on the impact of the application on these objectives appear in Appendix A to the application.

11. HUMAN RIGHTS IMPACT

- 11.1 The Human Rights 1998 (HRA) requires public bodies to ensure everything they do is compatible with Convention Rights and makes it unlawful for a public authority to act incompatibly with those Rights. **Article 6 (A6)** of the European Convention on Human Rights (ECHR) is the right to a fair trial. The key elements of this include:
- The right to a *fair* hearing;
 - The right to a *public* hearing;
 - The right to a hearing before an *independent and impartial tribunal*;

- The right to a hearing *within a reasonable time*.

- 11.2 When hearing an application, the proceedings of a non-judicial body such as the Licensing Sub Committee, as opposed to an actual Court, need not meet the full requirements of A6 where there is a right of appeal from the Licensing Sub Committee to a Court that does meet the full A6 standards and can consider all aspects of the case (even if that does not include a full re-hearing of the facts).
- 11.3 So, while it is good practice to make a hearing before the Licensing Sub Committee as A6 compliant as possible, it will not be a breach of the HRA if it is not. Further, the hearing of all applications is subject to the principles of Natural Justice and the requirement for decisions to be 'Wednesbury reasonable'.

12. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

- 12.1 Protocols agreed in relation to Licensing Hearings are within the Council's Constitution and will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

CONTACT OFFICER: Michael Goddard, Head of Public Protection and Licensing, Place Department, ext. 61838

BACKGROUND DOCUMENTS: None

APPENDICES:

Appendix A (Pages 7-14): Summary, Licensing Objectives & Policy

Appendix A1 (Page 15): Gambling Commission Guidance to Local Authorities - Summary of machine provisions by premises

Appendix A2 (Page 16): Gambling Commission Guidance to Local Authorities - Summary of gaming machine categories and entitlements

Appendix A3 (Pages 17-21): Gambling Commission Guidance to Local Authorities - Premises License Conditions

Appendix A4 (Pages 22-23): Gambling Commission Guidance to Local Authorities - Adult Gaming Centres

Appendix A5 (Pages 24-41): Application for a Premises License under the Gambling Act 2005

Appendix A6 (Pages 42-100): Area Profile of Crystal Palace

Appendix A7 (Pages 101-108): Interested Parties Representations

Appendix A8 (Pages 109): Ordinance Survey Map