

DRAFT

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 9 NOVEMBER 2020

Councillors Present: Graham Bridgman, James Cole (Chairman) and Tony Linden

Substitute: Councillor Rick Jones

Also Present: Julia O'Brien (Principal Officer - Compliance and Enforcement Public Protection Partnership) and Beth Varcoe (Solicitor) Councillor Rick Jones and Jo Watt (Member Services Officer)

PART I

5 **Declarations of Interest**

There were no declarations of interest received.

6 **Application No. 20/ 00517LGF - Merkur Slots, 11-13 Market Place, Newbury, RG14 5AA**

Councillor James Cole, Chairman of the Licensing Sub-Committee, welcomed all parties to the meeting and confirmed that everyone could hear the proceedings, including Mr Grant, an objector who had joined the meeting by telephone.

Stephen Chard, the Zoom host outlined the procedure for how the Sub-Committee would be run via Zoom. It was noted that all parties would be asked at regular intervals if they were able to hear the proceedings. If, at any point, any party could not hear the proceedings, then the Chairman would arrange to return to the point in the meeting when they were able to do so.

All parties confirmed that they had heard the procedure.

The Sub-Committee considered a report (Agenda Item 2(1)) concerning a premises licence under the Gambling Act 2005 in respect of Application No.20/00517LGF - Merkur Slots, 11-13 Market Place, Newbury, RG14 5AA.

Councillor James Cole, Chairman, confirmed the parties present as follows:

The members of the Sub-Committee were Councillor James Cole (Chairman), Councillor Graham Bridgman and Councillor Tony Linden. Councillor Rick Jones was in attendance as a substitute and would not take part in the discussion or decision making unless he was required to replace a member of the Sub-Committee.

The Solicitor advising the Sub-Committee was Beth Varcoe, and Jo Watt would maintain a record of the proceedings. The Zoom meeting hosts were Stephen Chard and Moira Fraser.

The Ward Members, Councillors Andy Moore and Martha Vickers, were in attendance and would be invited to speak at the appropriate time in the proceedings.

Councillor James Cole confirmed that Mr Philip Kolvin QC was in attendance to represent the applicant and he would be supported by the following associates:

- Dr Richard Bradley, Solicitor, Poppleston Allen – for and on behalf of Cashino Gaming Limited;

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- Ms Amanda Kiernan, Head of Compliance, Cashino Gaming Limited;
- Mr Andy Tipple, Head of Product, Cashino Gaming Limited;
- Mr Steve Ambrose, Operations Director, Cashino Gaming Limited;
- Mr Darrell Butterworth an independent Licensing and Security Authority Compliance Consultant.

Councillor James Cole confirmed that the following objectors were also in attendance:

- Mr Alfie Grant (via telephone);
- Mr Paddy Whur (Solicitor), representing Mr Charlie Woodhead.

Councillor James Cole explained the order in which parties would be invited to speak and said that all groups of speakers would have ten minutes in total in which to make their case which should take into account the three objectives of the Gambling Act 2005:

- (a) Preventing gambling from being a source of crime and disorder, being associated with crime and 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.

At the invitation of the Chairman, Councillor Graham Bridgman reminded all parties of the status of the Sub-Committee in relation to Section 153 of the Gambling Act in which there was a presumption in favour of granting these types of licences.

All parties confirmed they had heard the Chairman's introduction and statement from Councillor Graham Bridgman.

In accordance with the Council's Constitution, Julia O'Brien (Principal Officer - Compliance and Enforcement Public Protection Partnership) in addressing the Sub-Committee, raised the following points:

- An application under the Gambling Act 2005 by Cashino Gaming Limited for a new Bingo premises licence at 11 – 13, Market Place, Newbury, RG14 5AA had been received on 18 June 2020.
- In accordance with Section 163 of the Gambling Act 2005 (determination of application) and the Council's Statement of Gambling Principles, the application had been referred to the Licensing Sub-Committee for determination as representations had been received.
- The following documentation was included in the Sub-Committee agenda pack: a copy of the application, the notice of application issued, location and layout plans, operational standards, local area risk assessment and representations.
- The application had been correctly made and the 28 day consultation period had run until 16 July 2020.
- The applicant had confirmed that a copy of the notice of application had been displayed on the premises and advertised in a local newspaper.
- A copy of the notice of application had also been sent to the relevant Responsible Authorities.
- The Responsible Authorities, Ward members and Town Council Members had also been advised by the Licensing Authority via email on 19 June 2020.
- The Applicant was Cashino Gaming Limited, T/A Merkur Slots, Seebeck House, 1A Seebeck Place, Knowlhill, Milton Keynes, MK5 8FR

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- With regard to the times of operation stated in the agenda, there had been no request to exclude the default condition regarding times of operation - the default hours for bingo being Sunday to Saturday from 0900 to 1200 midnight.
- The application was advertised with a notice placed in the Newbury Weekly News on 25 June 2020. The site notice was checked and found to be on display on 2 July 2020.
- During the statutory consultation period of 28 days, representations had been received from interested parties.
 - There were no representations received from the Responsible Authorities.
 - 19 representations, including one petition had been received as follows:
 1. Niall Woodhead, Kintbury
 2. Andrei Trahbafir, The Sushi Maki restaurant, Newbury
 3. Daker Kourani, Kebab Korner, Newbury
 4. Kale Balgh, Newbury
 5. Gordon Abbotts, Newbury
 6. Grant Brisland, Newbury
 7. Georgia Nutley, Andover
 8. Graham Spellman, Newbury
 9. Darryl Chapman, Newbury
 10. Teresa Glanvue, Newbury
 11. William Ball, CEX, Kennet Centre, Newbury
 12. Isabel Carnsew, 35a Kennet Centre, Newbury
 13. Charlie Woodhead
 14. John Hunter, Shoemakers, The Arcade, Newbury
 15. Richard Stapleton, Newbury
 16. Cassandra Thorpe – The Elephant at The Market, Newbury
 17. M A Froberer
 18. Alfie (Mr Grant)
 19. Petition FriendsofNewbury.Co.uk
- The following responses had been received from the Responsible Authorities:
 1. Thames Valley Police – 13/07/2020 no objections
 2. Fire Authority – 06/07/2020 no representation
 3. Environmental Health - no response
 4. Gambling Commission - no response
 5. H M Revenue and Customs - no response
 6. Planning - no response
 7. Children and Young People's Services - no response
- The Licensing Authority had arranged a mediation meeting on 19th September 2020 to address and clarify the issues of concern. Two objectors had agreed to participate (Alfie Grant and Mark Roberts). One objector (Alfie Grant) had attended. The mediation meeting was also attended by Richard Bradley – Solicitor Poplestone Allen, Steve Ambrose – Cashino Gaming Limited Operations Director

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and Amanda Kiernan – Cashino Gaming Limited Head of Compliance. Unfortunately, no meaningful outcome had been achieved.

- The Sub-Committee also noted that, while not relevant to the Licensing application, a planning application was scheduled to be determined by the West Berkshire Council Western Area Planning Committee on 11 November 2020.

All parties with the exception of Mr Philip Kolvin said they had heard Ms O'Brien's presentation. Mr Kolvin said he had heard 95% of the presentation and was happy to proceed on that basis. Beth Varcoe, Solicitor for West Berkshire Council advised that she was happy to proceed given Mr Kolvin's statement of affirmation.

The Chairman of the Sub-Committee thanked Ms O'Brien and invited questions from the Sub-Committee and parties present.

In response to questions from Councillor Martha Vickers, Ward Member, Julia O'Brien confirmed that this was a Bingo application but if, granted, gaming machines would also be permitted. Beth Varcoe, Solicitor, West Berkshire Council, advised that the Licensing Sub-Committee had the power to amend the timings and exclude the default condition as stated in the application and add a further condition to make the permitted opening hours more or less restrictive.

Mr Alfie Grant said that he understood that under the proposed application, there would be 21 Bingo machines and 50 gaming machines. Mr Grant asked, why if this was a Bingo application, it was proposed to have over twice as many gaming machines on the premises. In response, Julia O'Brien said that there was no requirement for the application to state how many machines would be made available. In addition, providing Bingo machines were in operation, there was no limit on the number of machines that a premises was permitted to have.

All parties confirmed that they had heard the questions and answers arising from Ms O'Brien's presentation.

Mr Philip Kolvin QC representing the applicant, introduced his colleagues in attendance as follows:

- Mr Steve Ambrose, Operations Director, Cashino Gaming Limited
- Mr Darrell Butterworth, independent Licensing and Security Authority Compliance Consultant
- Ms Amanda Kiernan, Head of Compliance, Cashino Gaming Limited
- Mr Andy Tipple, Head of Product, Cashino Gaming Limited
- Dr Richard Bradley, Solicitor, Poppleston Allen

At 10.45 am Councillor Rick Jones briefly stopped his video but confirmed he had heard all the introductions. All other parties confirmed that they had heard the introductions from Mr Philip Kolvin QC.

In addressing the Sub-Committee, Mr Philip Kolvin QC, representing the applicant raised the following points:

- There had been no objections received from the Responsible Authorities including Thames Valley Police.
- The applicant was extremely experienced and was licensed by the Gambling Commission.
- The applicant operated accredited and thorough training systems for their staff who were also very well supported by management.

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- The applicant operated 170 premises across the UK to at standard of excellence which meant that none of the premises had ever been subject to a review of their licence. The company carried out regular audits and compliance work.
- Experience over the years had shown that these type of premises rarely generated crime and disorder. Fifty per cent of the customers were female, and free tea, coffee and snacks were made available to customers. Rather than being positioned behind screens, the staff regularly walked the premises speaking to customers.
- It was typical that only a handful of customers would be present in the premises at any one time and there was no loitering or disorder outside the premises. Each of the premises had CCTV outside which the staff were trained to use. Any incidents were logged on tablets and reviewed.
- Whilst this type of licence meant that the applicant would be entitled to serve alcohol and admit children, there was no intention to do either as part of this application.
- West Berkshire Council's Statement of Gambling Principles did not contain any presumptions against licensing in particular locations.
- The applicant would not only be subject to the standard legal obligations and any mandatory conditions as part of the licence but the applicant had suggested a number of additional proposed licence conditions, detailed on page 39 (written number) of the agenda. In addition, page 57 (written number) of the agenda set out the Cashino Gaming Limited Operational standards, a thorough set of measures that would be adopted as part of the licence. None of the Responsible Authorities had objected to these standards.
- A number of the objections received had not been legally relevant and should therefore be excluded. For example, the concept of potential nuisance, a dislike of gambling and the belief that there was no 'need' for the premises were not legally relevant.
- The thrust of what had been suggested by the objectors was that the premises would be a source of crime and disorder. The experience of the other 170 premises operated by the applicant suggested that this was not the case as not one licence review had taken place. Mr Butterworth, an independent Licensing and Security Authority Compliance Consultant and ex Police Officer had visited Newbury town centre and felt that there was nothing about the area that would mean the premises would be more prone to crime and disorder than any of the other 170 premises. These premises were in a range of settings around the UK.
- The local police had been specifically spoken to regarding the application and they had not expressed any concerns. The police were pleased to see the use of CCTV at the premises.
- It was felt that the raft of conditions, low number of customers on the premises at one time and developing good partnerships with the local police would all help to ensure crime and disorder was not generated. There was no evidence to suggest that crime and disorder would take place even if there was a fear of crime and disorder. If, for any reason crime and disorder was an issue then a review of the licence could take place.
- The applicant took the potential exploitation of vulnerable people very seriously and complied with the rules and adopted additional measures. If there were any

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issues relating to this issue, the matter would be dealt with speedily and effectively by the applicant.

All parties confirmed that they had heard the presentation from Mr Philip Kolvin QC.

The Chairman of the Sub-Committee thanked Mr Kolvin and invited questions from the Sub-Committee and parties present.

In response to a question from Councillor James Cole, Mr Ambrose, Operations Director, Cashino Gaming Limited confirmed that the 'Think 25' policy operated in exactly the same way as the 'Challenge 25' policy.

In response to questions from Councillor Graham Bridgman, it was confirmed that Praesepe Holdings Ltd was the UK Company with Mercur slots forming the trading element and Cashino being the licensed applicant. Mr Ambrose confirmed that once the planning and licensing applications had been approved there would be a build programme of between four to six weeks.

In response to a question regarding the layout of the premises, Mr Philip Kolvin QC confirmed that the plans contained in the agenda were the final plans and the entrance and exit to the premises would be the same door out onto the Market Place.

Mr Kolvin also confirmed that the applicant would have no objection to having a retention period of 31 days for any incident logs and CCTV recordings. Mr Kolvin added that staff would use a tablet to log incidents and this would form a permanent digital record.

In response to a question from Councillor James Cole, it was noted that unlike a traditional betting shop, staff in these bingo premises continually walked the floor and that was one of the reasons there was no trouble.

In response to a question from Councillor Graham Bridgman regarding Part 5 (17) of the application on page 7 of the agenda, Mr Kolvin said that the applicant would have no objection to an inspection by the Licensing Officer before the premises became operational.

With regard to the default conditions, Councillor Graham Bridgman asked for clarification regarding Schedule 2 Part 2 of the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales 2007) and the wording of paragraphs 1 and 2. Mr Kolvin said that there was no legal dispute, as bingo premises were subject to paragraph 2 of schedule 2 which meant gaming machines were a statutory exception and were permitted between the hours of 9am and midnight.

With the regard to the times of operation in the default conditions, Mr Kolvin said that very few of the applicants 170 premises had restricted hours of operation in place. Whilst the default conditions allowed for the premises to be operational 24 hours a day, some of the premises chose not to open 24 hours a day and this would be driven by demand.

Mr Kolvin asked the Sub-Committee to note paragraph 9.31 on page 79 (written number) of the agenda which stated that any conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. Mr Kolvin went on to refer the Sub-Committee to the parliamentary debate outlined on page 80 (written number) of the agenda which considered the inclusion of the prevention of nuisance in the Licensing Objectives. The Minister's response stated that there was no well-established link between betting and nuisance.

In response to a question from Councillor Graham Bridgman, Mr Philip Kolvin QC acknowledged that other casino type premises in Newbury were only open until 10.00 pm. Mr Kolvin added that whilst the number of customers in the early hours would probably be very low, other establishments in the Market Place were permitted to be open until the early hours.

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Councillor James Cole referred Mr Kolvin to paragraph 6 of Proposed Licence Conditions on page 39 (written number) of the agenda and asked why only 'excessive alcohol' was stated and not drugs. Mr Kolvin agreed that paragraph 6 should read 'alcohol and drugs' and said that staff always made a judgement as to whether customers were in a 'fit state' and should be gambling.

Councillor James Cole went on to ask how often customers were barred from other Cashino premises. Mr Kolvin said that there were a number of different processes that staff could apply to essentially bar customers from the premises but the first steps were typically in consultation with the customer and a decision the customer made. The process was as follows:

- Staff routinely observed the behavior of customers and interacted with them. Following advice from staff the customers might then have chosen to leave the premises.
- Staff could refer customers to gambling help organisations via literature or suggest that they use an app which would limit the amount of gambling they could do.
- Customers could also sign a self-exclusion agreement which would mean they would exclude themselves from all Bingo premises for at least six months.

Amanda Kiernan, Head of Compliance, Cashino Gaming Limited said that the names of all self-excluded customers were stored on a GDPR secure tablet which was reviewed at the start of every shift. If anyone breached their self-exclusion the incident would be recorded and they would be asked to leave. Ms Kiernan added that if customers refused to self-exclude then they would be barred by staff.

Ms Kiernan said that the company used the 'play right' app which linked to the tablets used by the premises and the information was also sent to a central hub and reviewed by the compliance team. Staff in the premises were well supported at a local and regional level which allowed them to implement these measures effectively. In addition there was an auditing template in place to measure all regulatory compliance and any premises that were not compliant would be subject to an audit re-visit. All premises received a minimum of two audit compliance visits per year. Only two premises had required a re-visit in the past.

In response to a question from Councillor Tony Linden, Mr Kolvin said the applicant would like the licence to run for 24 hours a day even if demand meant that they chose not to operate 24 hours a day.

In response to a question from Councillor James Cole, Ms Kiernan said that staff were trained to look out for signs of money laundering and take the necessary action if they were suspicious. In addition, all the Bingo and gaming machines had a data capture system which would send an alert if a succession of illegal notes were put into the machines.

In response to a question from Mr Alfie Grant, an objector, Mr Andy Tipple, Head of Product, Cashino Gaming Limited said that there would not be an ATM on the premises when it opened. Mr Tipple added that not all the Bingo premises had ATMs. Around 70 of the 170 Cashino premises did not have ATMs. Mr Tipple went on to say that the ATMs in the Cashino premises did not accept credit cards.

Councillor Martha Vickers, Ward Member said that despite the large amounts of material provided by applicant she had concerns regarding the ability of the staff (some of whom might be young or inexperienced in life) to challenge people who should not be on the premises. In response, Mr Kolvin said that staff undertook extensive training on both compliance and safeguarding via both 'platform' training and at training centres at least once every six months. Mr Kolvin added that the company did employ some young people at their premises but some staff had been with the company for 20 or 30 years.

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Mr Steve Ambrose added that the training undertaken by staff was both technical and operational and the blended learning combined online training and face to face training such as visiting other premises alongside colleagues. Mr Ambrose said that every venue was visited by their Area Manager at least once every two weeks.

In response to a further question from Councillor Martha Vickers, it was confirmed that there would be toilet facilities provided for both staff and customers.

Councillor Bridgman asked for clarification on an issue raised by Mr Alfie Grant regarding the type of machines that Cashino would be operating at the premises. Mr Tipple said that Cashino Gaming Ltd did not operate Fixed Odds Betting Terminals (B2 gaming machines) unlike licensed betting premises. High Street Bingo premises operated a combination of B3 and C gaming terminals with stakes ranging from 10p through to £2.

At 12.02 pm all parties confirmed that they had heard the questions and answer session of the applicant.

In addressing the Sub-Committee, Mr Paddy Whur (representing Mr Charlie Woodhead) and Mr Alfie Grant objectors raised the following points:

- Mr Whur introduced himself as a Betting and Gaming Solicitor and said that whilst the aim of the gambling legislation might be to permit applications, once objections had been received, the Sub-Committee should engage discretion and assess a number of questions.
- Mr Whur added that the Sub-Committee had a duty to consider the objections received and the concerns of the 176 people who had signed a petition against the application. The objections included people with serious concerns about the potential for crime and disorder from the premises especially with other late night premises such as the kebab shop in close proximity.
- Mr Whur questioned conditions 10 and 11 of the application and asked over what hours was it proposed to operate the mag night lock and if it was proposed to have two members of staff on the premises for the whole 24 hours of operation.
- Mr Butterworth, representing the applicant had only visited the proposed premises site up until midnight and during the Covid-19 pandemic when establishments had not been permitted to open later. Mr Butterworth would therefore not have witnessed any crime and disorder in the Market Place late at night.
- Mr Whur concluded by saying that the applicant had the choice to take on board these concerns and choose not to be operational 24 hours a day, seven days a week.
- Mr Grant said that he had concerns about the number of other gaming machines that would be in operation as well as Bingo machines.
- Mr Grant reiterated that due to the time that Mr Butterworth visited the site of the proposed premises, he did not obtain a realistic view of what Newbury was like late at night.
- Mr Grant said that there was a similar gaming facility in Northbrook Street, Newbury which was only open until 10.00 pm and asked why the proposed premises had to be open 24 hours a day.
- Mr Grant said he had visited similar premises in London and the young member of staff he had spoken to said that she had on occasion, locked herself in the toilets if there had been any trouble with customers.
- Mr Grant said that in his experience, such gaming premises were frequented by 'loners' who were ashamed to be in there. These people tended to be low paid

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and on benefits and therefore could least afford the loss of money. Mr Grant was also concerned about the vulnerability of those customers who came out of pubs and clubs and were under the influence of alcohol and/or drugs.

- Mr Grant had spoken to 17 different Police Officers and according to Mr Grant, none of them had wanted 24 hour establishments and just wanted people to go home at the end of a night out.
- Mr Grant said that Newbury was a lovely town and he hoped the Sub-Committee would refuse the application. Mr Grant felt that crime and disorder might happen a few days after people had lost their money in the gaming premises when they could no longer afford to feed their families.
- Mr Grant concluded by saying that there were already a number of betting shops with Bingo facilities in Newbury and that another facility was not needed.

The Chairman of the Sub-Committee thanked Mr Whur and Mr Grant the objectors and invited questions from the Sub-Committee and parties present.

In response to a question from Councillor Tony Linden, Mr Whur said that if the Sub-Committee was not minded to refuse the application, he hoped they would impose a 10.00 pm closure restriction on the premises.

Councillor Graham Bridgman said that under the legislation, there was a duty to permit the application and then mitigate any potential issues. Councillor Bridgman said that the applicant had provided a very detailed risk assessment and the objectors had provided no evidence to back up the concerns they had regarding crime and disorder. Councillor Bridgman added that Thames Valley Police had not objected to the application. Given all these factors, Councillor Bridgman asked how the Sub-Committee could use their discretion in favour of the objectors. In response, Mr Whur said that the objectors had the right to have their fears heard and the Sub-Committee had to decide if crime and disorder was likely or not to happen.

The applicant and Ward Member confirmed they had no questions for the objectors.

At 12.21 pm all parties confirmed that they had heard the questions and answer session of the objectors.

In addressing the Sub-Committee, Councillor Martha Vickers, Ward Member raised the following points:

- The organisation of the company was impressive and well set up and seemed to take the safeguarding of vulnerable people seriously.
- Councillor Vickers said that she took on board the concerns of the objectors and she had personal concerns about any issues that affected peoples' behaviour such as addiction. These concerns were extended to the morality of how gambling was dealt with at a national level and the need for education and services to help people to both prevent and treat gambling addiction.
- Councillor Vickers applauded Mr Grant for coming forward to express his views so eloquently and suggested that he could also take the matter up with his Member of Parliament.
- Councillor Vickers said that for many local residents who lived in flats above Market Place premises and nearby, the 24 hours a day, seven days a week element of the application was too much. These hours could create a big disturbance for those having to get up for work the next day or who might have young children. Councillor Vickers asked the Sub-Committee to consider restricting the hours of operation of the premises based on these concerns.

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- Councillor Vickers said that she was also concerned about the safety of staff on the premises during the night hours even if there were always two members of staff present.

At 12.29 pm all parties confirmed they could hear the proceedings including Mr Tipple whose video connection was temporarily lost.

- Mr Grant said that the applicant would be trying to make back the money they had spent on the premises within the first 12-18 months and this would rely on the premises turning over around £10k a week. Mr Grant said that this was a lot of money for the people of Newbury and a lot of money that could be spent in other shops, a point that Councillor Vickers agreed with.

At 12.40 pm, all parties confirmed that they had heard the final comment from Councillor Vickers with the exception of Mr Grant who was unable to unmute his phone to confirm he had heard. The Chairman adjourned the meeting to allow Officers to attempt to contact Mr Grant. Moira Fraser, Zoom meeting host confirmed that she had contacted Mr Grant and he had confirmed that he had heard the final part of the discussion before the adjournment. Mr Grant added that the battery on his mobile phone was not working correctly but he would try to re-join the meeting.

At 12.53 pm Councillor Bridgman raised a point of order and said that under the remote meetings regulations, those present had to be able to hear and be heard. Councillor Bridgman said that Mr Grant's contribution to the meeting had come to an end and that in accordance with the meeting procedure the summing up from the applicant, Mr Philip Kolvin QC was the only representation still to be made.

Beth Varcoe, Solicitor for West Berkshire Council advised that she felt it was necessary to speak to Mr Grant to confirm he was happy for the meeting to continue but it was a decision for the Sub-Committee Chairman. Councillor James Cole, Chairman of the Sub-Committee said that as Mr Grant had no further opportunity to speak in the meeting (in accordance with the meeting procedure), he would give him one further minute to join the meeting and for officers to make contact.

Stephen Chard meeting host said that it did sound as if Mr Grant was listening in to the call.

The Chairman re-commenced the Sub-Committee at 12.57 pm.

The Chairman invited Mr Philip Kolvin QC, representing the applicant to sum up. Mr Kolvin made the following points:

- Under the current legislation, licensing authorities should permit gambling applications in accordance with the codes and guidance.
- The concerns of the objectors were not based on any evidence that the licensing objectives would be breached. The objectors were entitled to make points but that did not mean the points had to be accepted.
- Whilst the Sub-Committee could use their discretion, moral or ethical objections to the application were not legally valid.
- If the Sub-Committee was minded to refuse the application then they would need to rely on evidence to demonstrate their reasons for refusal.
- There had been no objections received by Thames Valley Police and or concerns raised by Mr Butterworth, independent Licensing and Security Authority Compliance Consultant and former Police Officer.
- Conditions should only be applied to the license if deemed necessary and any conditions should be proportionate. There was no evidence to suggest that applying a closing time of 10.00 pm was necessary or made any sense.

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- Any potential issues such as disturbance to the neighbours and nuisance could be dealt with when the Planning Application for the premises was considered. In addition, if there were any nuisance issues when the premises was in operation then the licence could be called in for review by Environmental Health or other responsible authorities.
- Mr Kolvin confirmed that the mag lock would be in operation and two members of staff would be on the premises from midnight to 5.00 am every day. Mr Kolvin added that if there was a need extend these times then the applicant would do so.

Councillor Martha Vickers asked if two members of staff would be present at all times as surely this might not be viable if customer numbers were low at particular times. Mr Kolvin said that there might be times when a single member of staff was in place during the day but the use of a staff rota would ensure that staff were safe and able to fulfil their compliance responsibilities at all times. After 8pm there would be no planned single staffing on the premises and if necessary staff would be re-deployed from another site. After midnight there would always be two members of staff on the premises.

Councillor Tony Linden said he had not heard the discussion regarding the mag lock and this point was then repeated by Mr Kolvin. All other parties, including Mr Alfie Grant confirmed that they had heard the summing up by Mr Kolvin.

The Sub-Committee retired at 1.18 pm to make its decision.

NOTICE OF DECISION

The Licensing Sub-Committee of West Berkshire Council met remotely on 9th November 2020 and resolved to approve **Application No 20/00517LGF** for a bingo premises licence in respect of **11-13 Market Place, Newbury, Berkshire, RG14 5AA** (“**the Premises**”), subject to a number of conditions set out below.

In determining this Application, the Sub-Committee had regard to the principles set out in section 153 of the Gambling Act 2005 (“**the Act**”) and that it shall aim to permit the use of premises for gambling in so far as the Licensing Authority think it is:

- (a) in accordance with any relevant Code of Practice issued under section 24 of the Act;
- (b) in accordance with any relevant guidance issued by the Commission under section 25 of the Act;
- (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)); and
- (d) in accordance with the Council’s Statement of Gambling Principles issued under section 349 of the Act (subject to paragraphs (a) to (c)).

The three licensing objectives set out in section 1 of the Act are:

- (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.

The Sub-Committee noted that in determining this Application it may not have regard to the following:

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- the expected demand for the facilities which it is proposed to provide (section 153(2) of the Act);
- whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building (section 210(1) of the Act);
- any moral objections or dislike of gambling in an area pursuant to paragraphs 2.1 of the Council's Statement of Gambling Principles and paragraph 5.34 of the Gambling Commission's Guidance to Local Authorities.

Furthermore, the Sub-Committee noted paragraph 2.2 of the Council's Statement of Gambling Principles and that there is existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance where it arises as a result of noise from a building or from general disturbance once people have left a building and that the guidance to the Licensing Authority is that it will not use the Act to deal with general nuisance issues.

Representations

The Sub-Committee considered the Application submitted by the Applicant which included a bundle of additional information ("**the Additional Information**") and the written representations made by Alfie (referred to as Mr Alfie Grant during the oral representations as detailed below), Kate Balgh, William Ball, Isabel Cornsew, Darryl Chapman, M A Froberer, John Hunter, Daker Kourani, Georgia Nutley, Mr Graham Spellman, Richard Stapleton, Teresa Glanvue, Andrey Trahdafir, Charlie Woodhead, Grant Brisland and Gordon Abbotts.

The Sub-Committee also considered a petition which had been submitted and the oral representations made by:

- 1 **The Applicant:** Mr Philip Kolvin QC (Applicant's Legal Representative), and Ms Amanda Kiernan, Mr Andy Tipple and Mr Steve Ambrose on behalf of the Applicant;
- 2 **Objectors:** Mr Paddy Whur (Solicitor) on behalf of Charlie Woodhead and Mr Alfie Grant;
- 3 **Ward Member:** Councillor Martha Vickers.

Decision:

Having taken those relevant representations into account, the Licensing Sub-Committee **RESOLVED** that **Application No 20/00517LGF** be granted subject to the relevant mandatory and default conditions pursuant to the Gambling Act 2005 and any subordinate legislation and the conditions detailed below:

- 1 The licensing plan for the Premises shall be that included at paginated page 42/typed page 46 of the Additional Information.
- 2 The premises licence shall take effect once the Applicant has notified the Licensing Authority that the premises are ready to be used for gambling and a Licensing Officer has completed an inspection and is satisfied this is the case.
- 3 Between midnight and 6am there must be two members of staff on duty at all times.
- 4 Between 8pm and midnight there should be no planned single staffing. If there is single staffing during this time, a magnetic door locking system must be in constant use.
- 5 The Licensee shall take reasonable steps to prevent nuisance directly outside the Premises.

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- 6 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 7 Individuals who are deemed to be under the influence of excessive alcohol or under the influence of drugs shall not be allowed to enter the premises.
- 8 A Think 25 proof of age scheme shall be operated at the premises where any person who appears to be under 25 years of age, and who has not previously provided satisfactory proof to the contrary, is challenged at the point of entry. Acceptable forms of identification are recognised photograph identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- 9 Signage advertising the aforementioned proof of age scheme shall be prominently displayed throughout the premises.
- 10 The premises shall install and maintain a comprehensive digital CCTV system, which shall continually record whilst the premises are open. All recordings shall be retained for a minimum period of 90 days. Viewing of recordings shall be made available upon the request of the Police or an authorised officer of the Licensing Authority, subject to data protection legislative requirements.
- 11 Notices shall be prominently displayed within the premises stating that CCTV is in operation.
- 12 An incident log shall be kept at the premises and retained for a minimum period of 90 days and made available upon the request of the Police or an authorised officer of the Licensing Authority. The incident log must include (with full details of each):
 - a all crimes reported to the venue;
 - b all ejections of patrons;
 - c any complaints received concerning crime and disorder;
 - d any incidents of disorder;
 - e all seizures of drugs or offensive weapons;
 - f any visit by a relevant authority or emergency service;
 - g any attempts by children and young persons to gain access to the premises to gamble;
 - h any Think 25 refusals.
- 13 The appropriate staffing levels will be assessed by way of risk assessment and cognisance will be taken of any police advice.
- 14 The licensee shall participate in a local Betwatch or similar scheme, where available.

Reasons:

The Sub-Committee noted that the two licensing objectives which were engaged included:

- 1 preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; and
- 2 protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Sub-Committee noted that the Applicant had confirmed as part of its Application that no children would be allowed onto the Premises, there would be no licence to serve alcohol and it was not applying to exclude any default condition. As a consequence, the

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proposed hours of operation (subject to planning consents, etc) in relation to bingo would be Sunday to Saturday from 9am until midnight and 24 hours in relation to gaming machines.

The Sub-Committee was sympathetic to the concerns raised and representations made by the Objectors and the Ward Member. Notwithstanding this, however, it was only in a position to consider the relevant representations made and the evidence before it. The Sub-Committee considered that the Objectors' concerns related to a fear of what the future might hold and could not find any evidence that demonstrated that if the premises licence was granted it would not comply with the principles to be applied pursuant to section 153 of the Act.

The Sub-Committee placed appropriate weight on the fact that no Responsible Authority had made any representations in response to the Application, including Thames Valley Police and the body designated to advise the Licensing Authority about the protection of children from harm. Indeed, during the hearing, the Applicant had referred to discussions which had taken place with the Police and stated that the Police did not have any concerns and were assured in relation to the additional conditions offered by the Applicant in relation to CCTV and monitoring.

The Sub-Committee also observed that this was an experienced national operator with 170 premises and operational standards and procedures were in place. In particular, this included the training of staff and audits. Further, the Sub-Committee heard that members of staff would be walking the floor rather than sitting behind a screen. It was also asserted on behalf of the Applicant that it had never had a review of any of its premises licences, their premises rarely generated any issues of crime and disorder and only a handful of its premises were licensed for other than 24/7 operating hours.

Whilst the Sub-Committee resolved to grant the Application, this is subject to additional conditions. These conditions were offered by the Applicant and have been amended in light of the particular circumstances and location of the premises. The Sub-Committee was satisfied those conditions were necessary, appropriate and proportionate to provide additional assurance to mitigate any risks, but that it was not necessary or proportionate to add any further conditions in light of the regulation already in place.



Cllr James Cole

(Chairr



Cllr Graham Bridgman





Cllr Tony Linden


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Date: 16 November 2020

(The meeting commenced at 10.03 am and closed at 1.18 pm)

Name ... James Cole
Date of Signature: 07 February 2021

Name  Graham Bridgman
Date of Signature 07 February 2021

Name  Tony Linden
Date of Signature 07 February 2021

(The meeting commenced at 10.03 am and closed at 1.18 pm)