

**1. The Application**

- 1.1 This report concerns an application made under section 159 of the Gambling Act 2005 (the Act) by Luxury Leisure for a Premises Licence (Adult Gaming Centre) at 91 High Street, Thornton Heath, CR7 8RY.
- 1.2 An application for a premises licence may only be made by a person who:
- Holds an operating licence which authorises him to carry on the activity in respect of which the premises licence is sought and
  - Who has a right to occupy the premises to which the application relates.
- 1.3 An Adult Gaming Centre (AGC) premises licence authorises a premises to be used for making available Category B, C and D gaming machines. An AGC premises licence may make available for use a number of Category B machines not exceeding 20% of the total number of gaming machines that are available at the premises and any number of Category C or D machines. Category B machines should be restricted to sub category B3 or B4 machines but not B3A machines.
- 1.4 Taken from the Gambling Commission Guidance to Local Authorities, attached at Appendix A1 is the Summary of Machine Provisions by premises.
- 1.5 Attached at Appendix A2 is the Summary of Gaming Machine Categories and Entitlements.
- 1.6 Attached at Appendix A3 is Part 9 from the Gambling Commission Guidance to Local Authorities which concerns Premises Licence conditions.
- 1.7 Attached at Appendix A4 is Part 21 from the Gambling Commission Guidance to Local Authorities which concerns Adult Gaming Centres and this also includes the Mandatory conditions that would automatically be attached to an Adult Gaming Centre Premises Licence, if granted. Some types of gambling premises licence also have default conditions attached to them but there are currently no default conditions specific to Adult Gaming Centres.
- 1.8 Attached at Appendix A5 is a copy of the application for the premises licence and accompanying documentation that the applicant submitted with their application.
- 1.9 Attached at Appendix A6 is a copy of the Local Area Profile which was produced and is made reference to by the applicant in their risk assessment.

**2. Relevant representations**

- 2.1 A responsible authority (the Police) & interested parties have made representations on this application and copies are attached at Appendix A7.
- 2.2 An interested party is defined in the Gambling Act 2005 as someone who –

- lives sufficiently close to the premises to be likely to be affected by the authorised activities
- has business interests that might be affected by the authorised activities
- represents persons in either of these two groups.

2.3 The applicant has been provided with a copy of the representations made and both the applicant and those making representations have been made aware of the date, time and location of the Sub Committee hearing.

### **3. Policy Considerations**

3.1 Under the terms of the Act, the Council has published a Statement of Principles. This is available on the Council website at [www.croydon.gov.uk](http://www.croydon.gov.uk) . Hard copies are also available from the Council's Place Department and copies of the policy will also be available at the licensing sub committee hearing. The following paragraphs from the Statement are considered particularly relevant with regard to this application:

#### **PART A**

##### **1. The Licensing Objectives**

*In exercising their functions under the Gambling Act 2005 ('the Act'), licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act which the authority seeks to promote through this Statement of Principles. The licensing 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 gambling.*

*It should be noted that the Gambling Commission has stated: 'The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling'.*

*The Council is aware that, as provided by Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:*

- *in accordance with any relevant code of practice issued by the Gambling Commission; and*
- *in accordance with any relevant guidance issued by the Gambling Commission; and*
- *reasonably consistent with the licensing objectives; and*
- *in accordance with the authority's statement of principles.*

#### **PART B PREMISES LICENCES**

##### **1. General Principles**

*Premises licences are subject to the requirements set-out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations*

*issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate. The Guidance makes clear that Licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.*

*It is appreciated that as per the Guidance for local authorities "moral or ethical objections to gambling are not a valid reason to reject applications for premises licences" In addition, whereas previous legislation required that the grant of certain gambling permissions should take account of whether there was unfulfilled demand for the facilities, this is no longer the case and each application must be considered on its merits without regard to demand.*

**Location** - *The Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can be. As per the Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.*

*Croydon is a very diverse borough, both culturally and socio economically and also has areas where levels of crime and disorder and anti social behaviour are more prevalent than in others.*

*The Gambling Commission's Licence Conditions and Codes of Practice (LCCP), which were revised and published in April 2018, formalise the need for operators to consider local risks.*

*In this regard, operators are specifically referred to the Social Responsibility (SR) code 10.1.1 which 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 Council's Statement of Principles.*

*This Council expects all operators, especially when making new premises licence applications or, when applying to vary the terms of an existing premises licence, if there are significant changes in local circumstances and when there are significant changes at a licensee's premises that may affect their mitigation of local risks, to prepare robust and considered assessments of the local risks to the licensing objectives posed by the provision of gambling facilities at the application premises and address any factors that may have a negative impact on the licensing objectives. It is not possible to provide a complete list of factors to consider in relation to the risk assessment but the following are examples of the factors the Council would expect gambling operators to consider –*

- *The location of schools, sixth form colleges and youth centres in the local area of the licensed or application premises, with reference to the potential risk of under age gambling or the direct exposure to gambling by under age persons as a result and the mitigation measures the operator intends to introduce to reduce any such risks;*
- *The location of hostels or places offering support services for vulnerable people, such as those with addiction issues or who are homeless in the local area of the licensed or application premises. The Council expects operators to*

*give very careful consideration to the suitability of locating new licensed premises close to such sensitive premises, or to varying the terms of existing licenses in such areas, given the greater risk of problem gambling amongst these groups and would expect to see clear and robust mitigation measures from the operator on how they would intend to reduce any such risks;*

- Any reasonably available information about issues with problem gambling in the area of the licensed or application process. In assessing the negative impact premises may have on the licensing objectives, the Council will expect operators to include consideration of the existing density of licensed gambling premises and the status of the night time economy in the area local to their licensed or application premises. The Council will expect operators to particularly assess the risk of gambling being a source of crime, being associated with crime or being used to support crime in that area and to set out any mitigation measures they would intend to introduce to reduce any such risks.*
- The Council will expect operators, perhaps in prior discussions with the Police, to assess patterns of crime, disorder and anti-social behaviour in the area local to the licensed or application premises, specifically that linked to gambling premises and set out the measures they believe will mitigate any risks of their premises having a negative impact on those crime etc. patterns.*

*While none of the above preclude any application being made and each application will be decided on its merits, it is expected that any application will demonstrate how potential risks/concerns can be overcome.*

*The Council will expect licensees to share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority, such as, for example, when there is an inspection of a premises. Ideally, a copy of the current local area risk assessments will be kept at the licensed premises.*

### **Local Area Profiles**

*The Council is aware of the Gambling Commission recommendation that licensing authorities map and prepare their own assessments of local risks, in the form of local area profiles. Such profiles will be prepared and be available for operators to utilise when preparing their risk assessments through a specific request to the Council licensing team.*

*Undoubtedly, such local areas profiles will develop over time but at the outset, to assist operators, they will incorporate data on the matters listed above.*

**Duplication with other regulatory regimes** - *The Council will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Council will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will, however, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise. Operators are also reminded of the 'Sui Generis Use Class' status of betting shops in the Planning context which came into being in 2016.*

**Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council has considered the Guidance to local authorities:

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime - The Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Therefore, where an area has known high levels of organised crime this authority will carefully consider the effect on the licensing objectives of gambling premises being located in this area and whether additional conditions may be appropriate. The Council is aware of the distinction between disorder and nuisance and in determining whether disorder may occur, will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way – The Council has noted that licensing authorities would generally not be expected to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

Protecting children and other vulnerable persons from being harmed or exploited by gambling – The Council notes that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council will therefore consider, as suggested in the Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include:

- proof of age schemes
- supervision of entrances
- supervision of machine areas
- physical separation of areas
- appropriate notices/signage
- location of entry

The Council will make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises. The Council is aware of the concerns set out by the Gambling Commission in their briefing paper entitled 'Gambling-related harm as a public health issue' dated February 2018 and of the advice to local authorities from the Local Government Association in their document entitled 'Tackling gambling related harm – A whole Council approach' dated July 2018.

The Council is also aware of the British Beer & Pub Association (BBPA) Code of Practice concerning the social use of gaming machines in pubs, clubs and amusement arcades to protect the interests of children and vulnerable people. The BBPA code requires that all gaming machines in pubs, clubs and arcades shall:

- display the GamCare helpline number
- have clear signage forbidding play by under 18's and
- be supervised to ensure that there is no underage play.

*As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” In relation to this licensing objective, the Council will consider each application on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated.*

**Conditions** – *The starting point when considering an application is that it will be granted subject only to the mandatory and default conditions and additional conditions will only be imposed where there is evidence of a risk to the licensing objectives, such that there is a need to supplement the existing mandatory and default conditions.*

*Any additional conditions attached to licences will be proportionate and will be:*

- relevant to the need to make the proposed building suitable as a gambling facility;*
- directly related to the premises and the type of licence applied for;*
- fairly and reasonably related to the scale and type of premises; and*
- reasonable in all other respects.*

*Decisions upon additional conditions will be made on a case by case basis, although there will be a number of measures that the Council will consider utilising should there be a perceived need. There are specific comments made in this regard under some of the licence types below.*

*The Council may consider measures to meet the licensing objectives, such as:*

- leaflets giving assistance to problem gambling to be clearly displayed in all areas of the premises*
- self exclusion forms to be made available for customer use*
- machines such as fixed odds betting terminals to clearly display odds*
- ATM or cash terminals to be sited away from gaming machines*
- Details of the GamCare helpline and website to be displayed prominently in premises*

*The Council will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Guidance.*

*The Council will also ensure that where category C or above machines are on offer in premises to which children are admitted:*

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;*
- only adults are admitted to the area where these machines are located;*
- access to the area where the machines are located is supervised;*

- *the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and*
- *at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.*

*These considerations will apply to premises including buildings where multiple premises licences are applicable.*

*The Government has issued regulations that set out the categories of gaming machines, with the maximum stakes and prizes that apply, and these can be found via the following link:*

[http://www.legislation.gov.uk/ukxi/2007/2158/pdfs/ukxi\\_20072158\\_en.pdf](http://www.legislation.gov.uk/ukxi/2007/2158/pdfs/ukxi_20072158_en.pdf)

*The Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Guidance, the Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.*

*It is noted that there are conditions which the Council cannot attach to premises licences which are:*

- *any condition on the premises licence which makes it impossible to comply with an operating licence condition;*
- *conditions relating to gaming machine categories, numbers, or method of operation;*
- *conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and*
- *conditions in relation to stakes, fees, winning or prizes.*

**Door Supervisors** – *this Council notes that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protecting children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. Whilst there is currently no apparent evidence that the operation of betting offices requires door supervisors for the protection of the public, this authority will consider making a door supervision requirement with regard to a betting office if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and/or that door supervision is both necessary and proportionate.*

*Where operators and the Council decide that supervision of entrances/machines is appropriate for particular cases, it will need to be decided whether these staff need to be Security Industry Authority (SIA) licensed or not. Furthermore, if a person carries out ‘door supervisor’ duties but is exempt from the requirement to be licensed by the SIA, the Council will expect that person to be trained to a nationally recognised standard and be able to show that they have undergone relevant and appropriate police records checks. Door supervision will not, however be seen in isolation as the only remedy for concerns and the Council will consider other options, if considered appropriate, to achieve the licensing objectives.*

## **2. Adult Gaming Centres**

*The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.*

*The Council may consider measures to meet the licensing objectives, such as:*

- *Proof of age schemes*
- *CCTV*
- *Supervision of entrances / machine areas*
- *Physical separation of areas*
- *Location of entry*
- *Notices / signage*
- *Specific opening hours*
  - *Self-exclusion schemes*
  - *Provision of information leaflets / helpline numbers for organisations such as GamCare.*

*This list is not mandatory, nor exhaustive, and is merely indicative of example measures.*

## **10. Reviews**

*Requests for a review of a premises licence can be made by interested parties or responsible authorities however, it is for the Council to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, in that the request is:*

- *in accordance with any relevant code of practice issued by the Gambling Commission;*
- *in accordance with any relevant guidance issued by the Gambling Commission;*
- *reasonably consistent with the licensing objectives; and*
- *in accordance with the authority's statement of licensing policy.*

*In addition, consideration will be given as to whether the request for review is frivolous, vexatious, would not cause the Council to wish to alter/ evoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.*

*The Council can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.*

3.2 An ordnance survey extract map is attached at Appendix A8 showing the location of the premises.