

REPORT TO:	LICENSING SUB COMMITTEE Thursday 23 June 2022
AGENDA ITEM:	
SUBJECT:	GAMBLING ACT 2005 – APPLICATION FOR PREMISES LICENCE – BINGO
LEAD OFFICER:	Corporate Director, Sustainable Communities, Regeneration & Economic Recovery
CABINET MEMBER:	Cllr. Scott Roche Streets & Environment
WARDS:	Norbury
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 a Bingo Premises Licence at 1432-1434 London Road, Norbury, SW16 4BZ.

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, (Bingo) 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

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.

2 The effect of the decision

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

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 Options

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

5 Savings/ future efficiencies

None identified.

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.

(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 HR 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. In exercising licensing functions, the Council is required to comply with Section 149 of the Equality Act 2010 which requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- Foster good relations between people who share a protected characteristic and people who do not share it.

- 8.2 For these purposes the protected characteristics are

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

- 8.3 The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.

- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

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.

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BACKGROUND DOCUMENTS: Application Forms
Licensing Hearings Protocol and Procedure