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Licensing Sub-Committee

Meeting of held on Thursday, 23 June 2022 at 10.30 am. This meeting was held remotely, to view this meeting please click [here](#).

MINUTES

Present: Councillor Karen Jewitt (Chair);
Councillors Margaret Bird and Nina Degrads

Also Present: Michael Goddard (Head of Environmental Health, Trading Standards and Licensing); Jessica Stockton (Solicitor and Legal Advisor to the Committee); Tariq Aniemeka-Bailey (Trainee Democratic Services Officer) and Jayde Watts (Trainee Democratic Services Officer)

PART A

84/22 **Appointment of Chair**

Councillor Nina Degrads nominated Councillor Karen Jewitt as Chair and Councillor Margaret Bird seconded the motion.

The Sub-Committee **RESOLVED** to appoint Councillor Karen Jewitt as Chair for the duration of the meeting of the Sub Committee.

85/22 **Disclosure of Interests**

There were none.

86/22 **Urgent Business (if any)**

There were no items of urgent business.

87/22 **GAMBLING ACT 2005 - Application for a Bingo Premises Licence at 1432-1434 London Road, Norbury, SW16 4BZ**

The Licensing Sub-Committee considered the Application for a Bingo Premises Licence at **1432-1434 London Road Norbury SW16 5BZ** under Section 159 of the Gambling Act 2005 ("the Act") and the representations

received as contained in the report of the Corporate Director, Sustainable Communities, Regeneration & Economic Recovery. The Sub-Committee also considered the additional representations made by the Applicant and by interested parties which were circulated to the Sub-Committee and the Parties prior to the hearing. This included the additional written representations from an objector who had planned to attend the hearing but was subsequently unable to do so.

The Sub-Committee also considered the representations made by the Applicant's representative, a Ward Councillor on behalf of an objector and another objector during the hearing. The Sub-Committee noted that although some of the objectors were not present at the hearing or did not wish to speak at the hearing, they had the benefit of the written representations and have had regard to these.

The Sub-Committee, having reference to the relevant code of practice under s.24 of the Act, the relevant guidance issued by the Gambling Commission under s.25 of the Act, the licensing objectives under the Act and the Council's statement of principles under the Act, **RESOLVED to GRANT** the application on the basis that it satisfied the duty in section 153 of the Act.

The reasons of the Sub-Committee were as follows:

1. S.153 provides that licensing authorities shall aim to permit the use of premises for gambling in so far as they think it is:
 - a. in accordance with any relevant code of practice under s.24
 - b. in accordance with any relevant guidance issued by the Commission under s.25
 - c. reasonably consistent with the licensing objectives (subject to a and b above),
 - d. in accordance with the licensing authority's statement of licensing policy (policy statement) (subject to a to c above).
2. In exercising their functions under the Act, particularly in relation to premises licences, temporary use notices and some permits, licensing

authorities must have regard to the licensing objectives set out in s.1 of the Act, namely:

- 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.

3. In determining applications for premises licences, the Act explicitly sets out two principles that licensing authorities should not have regard to:

- s.153 makes it clear that in deciding whether or not to grant a licence, a licensing authority must not have regard to the expected demand for gambling premises that are the subject of the application
- s.210 (1) of the Act states that 'in making a decision in respect of an application...a licensing authority should not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with law relating to planning or building'.

4. In addition, the Sub-Committee were mindful of the provisions of the statutory guidance which set out the following at paragraph 5.34:

Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).

5. The Act provides that licences may be subject to conditions in a number of ways:

- they may attach automatically, having been set out on the face of the Act
- they may attach through regulations made by the Secretary of State
- they may be attached to operating and personal licences by the Gambling Commission
- they may be attached to premises licences by licensing authorities.

6. In relation to conditions and attaching conditions, the Sub-Committee was mindful of the statutory guidance, including at paragraph 9.28 which provides that *Licensing authorities should make decisions on conditions on a case-by-case basis, and in the context of the principles of s.153. They must aim to permit the use of premises for gambling and so should not attach conditions that limit their use except where it is necessary in accordance with the licensing objectives, the Commission's codes of practice and this guidance, or their own statement of policy. Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.* In addition, paragraph 9.31 provides that *Conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions are: relevant to the need to make the proposed building suitable as a gambling facility; directly related to the premises (including the locality and any identified local risks) and the type of licence applied for; fairly and reasonably related to the scale and type of premises; reasonable in all other respects.*

7. The Sub-Committee - whilst they had sympathy with the residents who had raised issues and who had a vision of the types of premises they may wish to see on their high street - were clear that the majority of those representations pertained to ethical or moral concerns relating to gambling or a desire not to have gambling (or additional gambling) being undertaken in their high street, which are not matters which the Sub-Committee can have regard to in reaching a decision on whether

or not to grant the application. A number of the representations related to the need or lack thereof for premises for gambling and again this was not a matter in respect of which the Sub-Committee could have regard to in reaching their decision. The Sub-Committee noted that they did not have before them any objections or concerns from any of the responsible authorities. These are bodies identified by S157 of the Act and are public bodies that must be notified of applications like the one under consideration and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences. This includes police, fire authority, pollution team and the designated body who advises on protection of children from harm.

8. Specifically in relation to crime and disorder, the Sub-Committee noted that they did not have before them any objections from the police and indeed the police had agreed conditions with the applicant which are detailed in the report before members (paragraph 1.9 of Appendix A). In addition, the operator has detailed a number of conditions which they wish to have included on the license, if granted, to support the licensing objectives. These conditions are detailed within Appendix A4 of the report.
9. The Sub-Committee did not have before it any specific evidence which raised concerns about this operator or the operation of this premises at this location which would indicate that the objectives would not be or were unlikely to be met. In addition, the operators' detailed policies set out how they support the objectives and in relation to the protection of children from harm this includes such matters as this premises being strictly over 18's, operating a Think 25 policy regarding the checking of identification and the premises not being, in its external appearance, such as to attract or entice children to the premises.
10. In relation to comments in the representations about a decision taken by another licensing authority, with their own distinct licensing policy

and different individual circumstances and which pertained to an entirely different operator: the Sub-Committee did not consider that such a decision was a relevant consideration in relation to matters which they were called on to consider as part of this hearing.

11. In relation to the risk assessment the Sub-Committee considered the Council's statement of licensing principles under the Gambling Act which provides that *"This Council expects all operators 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. In addition, the Council expects all operators to review (and update as necessary) their local risk assessments:*

- *to take account of significant changes in local circumstances, including those identified in this statement of licensing policy;*
- *when there are significant changes at a licensee's premises that may affect their mitigation of local risks;*
- *when applying for a variation of a premises licence; and*
- *in any case, undertake a local risk assessment when applying for a new premises licence.*

The Sub-Committee were pleased to see that not only had the applicant undertaken a risk assessment prior to applying but that, as detailed by the Operator's Head of Compliance at the hearing, there had already been an updated assessment to take into account changing/additional information and there was an ongoing series of mechanisms by which the risk assessment was considered and updated to ensure that it remained relevant and appropriate to support the objectives throughout operation of the premises.

12. The Sub-Committee wished to thank all participants for the manner in which they engaged with and supported the hearing in providing information to allow the Sub-Committee's consideration. The Sub-

Committee hopes that once the operation is in place it conducts its business in a neighbourly and considerate way.

88/22 **Exclusion of the Press and Public**

This item was not required.

The meeting ended at 11.57 am

Signed:

Date:

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