

Report to Licensing Sub Committee 1

Thursday 23 September 2021

Subject:	Application for the grant of a new Premises Licence at Palace Amusements, 562 Bearwood Road, Smethwick, B66 4BS
Director:	Interim Director – Borough Economy – Nicholas Austin
Contact Officer:	Balbir Dhugga Licensing Officer licensing_team@sandwell.gov.uk

1. Recommendations

1. The purpose of this report is to provide the Committee with information required to consider and determine an application for the grant of an Adult Gaming Centre premises licence under section 159 of the Gambling Act 2005 in respect of Palace Amusements, 562 Bearwood Road, Smethwick, B66 4BS.
2. Each application must be considered on its merits taking into account the evidence presented at the hearing, and the Council's Statement of Principles published in accordance with section 349 of the Gambling Act 2005. The options that can be considered once evidence has been heard are detailed at section 5.

2. Reasons for Recommendations


- 2.1 The Licensing Sub Committee is asked to make a decision on the application based on any evidence presented at the hearing taking into account. Relevant Codes of Practice issued by the Gambling Commission. Relevant guidance issued by the Gambling Commission.



An application is reasonably consistent with the licensing objectives, and the Council's Statement of Principles published in accordance with section 349 of the Gambling Act 2005 and to give reasons for their decision.

- 2.2 To consider an application for the grant of a new premises licence in respect of Palace Amusements, 562 Bearwood Road, Smethwick, B66 4BS following receipt of a representation. The representation is from a local resident objecting to the grant of the application due to concerns that one or more of the three licensing objectives would be undermined. Specifically, the protecting children and other vulnerable persons from being harmed or exploited by gambling objective. The representation mentions the premises is very close to bus stops used by local school children and residents many of whom are elderly. The addition of another gambling premises will make it impossible for any pedestrians or users of public transport to avoid walking and waiting outside the premises. Other concerns are that another gambling premises in the local vicinity will add to the already substantial street crime and anti-social behaviour in the area.

3. How does this deliver objectives of the Corporate Plan?

	<p>A strong and inclusive economy Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy. It is the Authority's aim to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit. We want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.</p>
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4. Context and Key Issues

- 4.1 Objections can only be made by responsible authorities or interested parties. Interested parties are defined as a person who:
- (a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities.
 - (b) Has business interests that might be affected by the authorised activities.



- Represents persons who satisfy paragraph (a) or (b)

4.2 Under the Gambling Act 2005, a responsible authority or interested parties may make representations in respect of the application which must be relevant to one or more of the three licensing objectives, 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.

4.3 A licensed Gambling Operator (or a person or organisation who has applied for an Operating Licence) may make an application for a new Premises Licence or a variation to an existing Premises Licence. In determining an application for a premises licence, the licensing authority must hold a hearing:

- a) if an interested party or responsible authority has made and not withdrawn representations in respect of the application; or
- b) if the authority proposes to exclude a Default Condition; or
- c) if the authority proposes to include any condition other than a Mandatory Condition or Default Condition required by the Act.

Representations

- 4.4 No representations were received from any of the responsible authorities identified in the Gambling Act 2005 and associated regulations.
- 4.5 One representation has been received from a local resident who lives sufficiently close to the intended premises. A copy of the representation is attached at Appendix 6.
- 4.6 A copy of the representation, with some details redacted, were provided to the applicant's agent.
- 4.7 The applicant(s) and persons making representations have been given notice of this hearing, and invited to attend.



Current Position

- 4.8 An application has been made by East Kent Leasing Limited for the grant of a new premises licence.
- 4.9 The application is for Adult Gaming Centre (AGC). Adult gaming centres are premises for adults providing gaming machines with higher pay-outs than family entertainment centres.
- 4.10 East Kent Leasing Limited hold operating licence number 000-034401-N-315687-010 issued by the Gambling Commission entitling them to make gaming machines available for use in an adult gaming centre. This was confirmed online at the Gambling Commission website.
- 4.11 The default condition applies to the proposed hours the premises will be open to the public. The applicant has not applied to exclude a default condition so that the premises may be used for longer periods.
- 4.12 A copy of the application for premises licence, site plan, location plan, local area risk assessment and notice of application (form A) is attached from Appendix 1 to Appendix 5.
- 4.13 In response to the representation. The applicant has provided additional information to support their application. This is attached in Appendix 7 to Appendix 13.

Consultation (customers and other stakeholders)

- 4.14 The applicant has confirmed the required public notice was displayed at the premises.
- 4.15 The application was advertised in the local press as required by the Gambling Act 2005. A copy of the public notice appearing in the press for the required period of time.
- 4.16 The application for the licence has been properly made and consultation carried out as required by the Gambling Act.



5. Alternative Options

- 5.1 On considering an application for a premises licence (whether at a hearing or not) a licensing authority shall –
- Grant it, or
 - Reject it.
- 5.2 If an application for a Premises Licence is granted, the authority has discretion to attach further conditions (in addition to any conditions attached as Mandatory or Default conditions) deemed necessary, under section 169(1)(a) of the Act. Such a condition may address a matter relating to the exclusion of a Default Condition. However, conditions may not be imposed that:
- make it impossible for the licence-holder to comply with an operating licence condition;
 - limit the number, categories or method of operation of gaming machines that may be made available (beyond any relevant limits imposed under the Act);
 - require membership of a club or body in order to make use of gambling facilities; or
 - limit stakes, fees, winnings or prizes (beyond any relevant limits imposed under the Act).
- 5.3 Appeals must be instituted in the Magistrates Court for the area within 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought.

6. Implications

Resources:	There are no direct strategic resource implications associated with this application. In respect of premises licence applications, we do not foresee any issues in respect of sustainability of proposals. The application relates to a privately owned property.
Legal and Governance:	Members of the Licensing Sub Committee when making their decision on the application must take into account Section 153 of the Gambling Act 2005 sets out the principles to be applied by licensing authorities when determining whether to permit the use of premises for gambling.



These are:

153 Principles to be applied

(1) In exercising their functions under this Part, a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—

(a) in accordance with any relevant code of practice under section 24,

(b) in accordance with any relevant guidance issued by the Commission under section 25,

(c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and

(d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

(2) In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

(3) This section is subject to section 166.

Note:

With reference to s 153(1)(a), a copy of the Gambling Commission's Licence conditions and codes of practice.

With reference to s 153(1)(b), the latest version of the Gambling Commission's Guidance to licensing authorities.

With reference to s 153(1)(c), s 1 of the Act defines the three licensing objectives. These 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.

With reference to s 153(d), the Council's *Statement of Principles*, published in accordance with s 349 of the Act.

Section 166 of the Act, referenced by s 153(3), allows a licensing authority to resolve not to issue casino premises licences. As such, s 166 is not relevant to this application.

The applicant and those who have made relevant representations have the right to appeal the decision made by the Licensing Sub Committee to the Magistrates Court, so the Committee are asked to give reasons for their decision wherever possible.

Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant



	and/or the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.
Risk:	<p>The Police are a statutory consultee for all Gambling Act 2005 applications. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime is one of the three licensing objectives.</p> <p>The Police have not made a representation to this application.</p> <p>Whilst full details of the application and any representations have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public online, in line with data protection protocols.</p>
Equality:	<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.</p> <p>The operators of this premises are responsible for complying with all relevant legislation.</p>
Health and Wellbeing:	This is not applicable to applications for premises licences submitted under the Gambling Act 2005.
Social Value	This is not applicable to applications for premises licences submitted under the Gambling Act 2005.

7. Appendices

- Appendix 1 – Licence application
- Appendix 2 – Site plan
- Appendix 3 – Location plan
- Appendix 4 – Local Area Risk Assessment
- Appendix 5 – Form A, notice of application
- Appendix 6 – Representations
- Appendix 7 – SR Charter Code of Conduct
- Appendix 8 – Bacta Toolkit
- Appendix 9 – Notices in premises
- Appendix 10 – Stay in control leaflet
- Appendix 11 – Premises frontage



- Appendix 12 – Gamcare leaflet
- Appendix 13 – Safeguarding in Gambling Training

8. Background Papers

- Sandwell Metropolitan Borough Council, Gambling Act 2005 – Statement of Principles
- Section 153 of the Gambling Act 2005
- Gambling Commission’s Licence conditions and codes of practice
- Gambling Commission’s Guidance to licensing authorities

