

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting: Thursday 4th July 2013 at 2.00pm
Report of: Mrs N Cadman
Subject/Title: **Application for a Betting Premises Licence at William Hill, 19/21 High Street, Sandbach, CW11 1AJ**

1.0 Report Summary

- 1.1 The report provides details of an application for betting premises licence together with details of relevant representations received in relation to the application.

2.0 Recommendations

- 2.1 The Sub-Committee is requested to determine the application for a Betting Premises Licence by William Hill Organization Limited trading as William Hill in respect of:

William Hill
19/21 High Street
Sandbach
Cheshire
CW11 1AJ

3.0 Reasons for Recommendations

- 3.1 The Sub-Committee has the delegated authority to grant or reject this application in accordance with the provisions of the Gambling Act 2005 and the Council's Constitution.

4.0 Wards Affected

- 4.1 Sandbach Town

5.0 Local Ward Members

- 5.1 Cllr Barry Moran

6.0 Policy Implications

- 6.1.1 The Licensing Authority has adopted a Statement of Gambling Principles in accordance with section 349 of the Gambling Act 2005. Whilst having regard to the general principles within the Statement, Members may wish to consider the following:

6.1.2 Paragraphs 8.2 to 8.6 deal with the consideration of applications:

8 Consideration of applications

8.2 *The licensing authority has determined to set out a number of factors, linked to the licensing objectives, which it may consider when considering applications. It should be noted that each case will be decided on its merits, so if an applicant can show how they might overcome licensing objective concerns, then that will be taken into account.*

8.3 *Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime*

8.3.1 *In considering licence applications, the Licensing Authority will particularly take into account the following:-*

- *The location of the premises – for example if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime.*
- *The design and layout of the premises;*
- *The training given to staff in crime prevention measures appropriate to those premises;*
- *Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;*
- *Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;*
- *The likelihood of any violence, public order or policing problem if the licence is granted.*

8.3.2 *This licensing authority notes the Commission's Guidance in relation to the meaning of disorder in the context of gambling premises, namely activity that is more serious and disruptive than mere nuisance, and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.*

8.3.3 *Applicants are encouraged to discuss the crime prevention procedures in their premises with the Licensing Officers of Cheshire Constabulary before making a formal application.*

8.4 Ensuring that gambling is conducted in a fair and open way

8.4.1 This licensing authority has noted that the Commission's Guidance states: "Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence."

8.5 Protection of children and other vulnerable persons

8.5.1 It is noted that, with limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments.

8.5.2 This licensing authority has noted that the Gambling Commission Guidance to local authorities states that "The objective talks of protecting children from being "harmed or exploited by gambling", but in practice that often means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children

8.5.3 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include consideration of issues such as:-

- Supervision of entrances;
- Segregation of gambling areas from areas frequented by children;
- Supervision of gaming machines in non-adult gambling specific premises.

8.5.4 The Licensing Authority recognises the Commission's Guidance which states that Licensing authorities should 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 area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.*

8.5.6 The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will assume for regulatory purposes, that “vulnerable persons” include:

- *People who gamble more than they want to;*
- *People who gamble beyond their means;*
- *People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.*

8.6 Conditions

8.6.1 The Act provides licensing authorities with:

- *The ability to exclude from the premises licence any default conditions that have been imposed under section 168; and*
- *The power to impose conditions on the premises licence*

8.6.2 The Licensing Authority recognises its duty to act in accordance with the principles within section 153 of the Act and will not attach conditions which limit the use of premises for gambling except where to do so is necessary as a result of the requirement to act:

- *In accordance with the Commission’s Guidance, the Commission’s Codes of Practice, or this statement of licensing principles; or*
- *In a way that is reasonably consistent with the licensing objectives.*

The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

8.6.3 *Any condition imposed by the licensing authority will be proportionate to the circumstances which it seeks to address. In particular, the licensing authority will ensure that premises licence conditions are:*

- *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.*

8.6.4 *Decisions on individual conditions will be taken on a case-by-case basis, although this will be against the background of general policy set out in the Commission's Guidance and this statement of principles.*

8.6.5 *There are conditions which the Licensing Authority cannot attach to premises licences which are:*

- *any condition 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*
- *conditions in relation to stakes, fees, winning or prizes.*

8.6.6 *Where a condition is attached to a premises licence requiring door supervisors, the Licensing Authority will normally require those door supervisors to be Security Industry Authority (SIA) registered. Door supervisors at casinos or bingo premises are exempt from being registered by the SIA but the Licensing Authority considers that it is best practice for door supervisors working at casinos or bingo premises to have SIA training or similar.*

6.1.3 Paragraph 10.4 deals with betting premises:

10.4 Betting Premises

10.4.1 *The Licensing Authority will take into account*

- *the size of the premises;*
- *the number of counter positions available for person-to-person transactions; and*

- *the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people*
- *when considering the number, nature and circumstances of betting machines an operator wants to offer.*

10.4.2 The Licensing Authority will consider making door supervision a requirement in circumstances where there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

10.4.3 The Licensing Authority is mindful of the conditions which may be attached to betting premises licences, which may include those relating to the restriction of the number of betting machines, their nature and the circumstances in which they are made available. The Authority will consider limiting the number of machines in circumstances where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. In these circumstances the Authority may take into account the ability of staff to monitor the use of such machines from the counter.

10.4.4 The Licensing Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

6.2 Members should also note that at 7.2.4 the Licensing Authority states that:

Representations made on the grounds that an applicant would be in competition with an existing business or that there is allegedly no demand for additional gambling premises will not be considered to be relevant.

6.3 The Authority must also have regard to the Guidance issued by the Gambling Commission in accordance with section 25 of the Act and the code of practice issued by the Commission.

6.4 The Code of Practice relating to betting states that:

- (1) Licensees must have and put into effect policies and procedures intended to promote socially responsible gambling.
- (2) Licensees' policies and procedures for socially responsible gambling must include but need not be confined to:
 - the specific policies and procedures required by the following provisions of section 2 of this code
 - a commitment to and how they will contribute to research into the prevention and treatment of problem gambling
 - a commitment to and how they will contribute to public education on the risks of gambling and how to gamble safely
 - a commitment to and how they will contribute to the identification and treatment of problem gamblers.
- (3) Licensees must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these. This must include procedures for:
 - checking the age of apparently underage customers
 - removing from adult-only licensed premises anyone who appears to be underage who tries to access the gambling facilities and cannot produce an acceptable form of identification
 - taking action when there are attempts by under-18s to enter adult-only premises
 - refusing entry to any adult-only area of a track to anyone unable to produce an acceptable form of identification
 - taking action when there are unlawful attempts to enter the adult-only areas.
- (4) Licensees must not deliberately provide facilities for gambling in such a way as to appeal particularly to children or, except in the case of football pools, young people, for example by reflecting or being associated with youth culture.
- (5) In premises restricted to adults, service must be refused in any circumstances where any adult is accompanied by a child or young person.
- (6) Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This must include appropriate training which must cover the legal requirements on returning stakes and not paying prizes to underage customers.
- (7) Licensees must only accept identification which:
 - contains a photograph from which the individual can be identified
 - states the individual's date of birth
 - is valid
 - is legible and has no visible signs of tampering or reproduction.

6.5 Members' attention is drawn to the sections of the code of practice that relate to Primary Gambling Activity:

'Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available.'

'Such facilities for betting must include the provision of information that enables the customer to access details of the events on which bets can be made and to be able to place those bets, obtain details of the outcome of the events, calculate the outcome of their bets and be paid or credited with any winnings.'

'Where licensees provide facilities for betting only by means betting machines (machines which are designed or adapted for the purpose of making or accepting bets on future real events) the licensee must ensure that the number of betting machines is greater than the number of gaming machines which are made available for use in reliance on the premises licence.'

- 6.6 In relation to primary gambling activities the Gambling Commission's Licence conditions and codes of practice (consolidated version December 2011) states:

'In order to demonstrate that the primary gambling activity for which an operating licence has been issued is being offered in each licensed premises, licensees should have regard to the following general factors:

- the ratio of the space available to customers allocated to the primary gambling activity, to that allocated to other gambling activities*
- the extent to which the primary gambling activity is promoted on the premises and by way of external advertising compared to other gambling activities*
- the use, either expected or actual, to be made of the different gambling facilities.'*

- 6.7 Listed below are relevant extracts from the Guidance issued by the Gambling Commission:

'Conditions on premises licences should relate only to gambling, as considered appropriate in the light of the principles to be applied by licensing authorities under section 153 (see paragraph 4.12). Accordingly, if the Commission's Licence Conditions and Codes of Practice (LCCP) or other legislation places particular responsibilities or restrictions on an employer or the operator of premises, it is not necessary or appropriate to impose the same or similar duties in conditions on a premises licence issued in accordance with the Gambling Act. Similarly, where other legislation confers

powers on inspection and enforcement agencies in relation to separate activities or concerns, the Gambling Act does not affect the continued use of such powers; for example, the powers of an environmental health officer in respect of statutory nuisance under the Environmental Protection Act 1990.’ (para 4.16)

‘It is not permissible for an operator to offer gaming machines on a premises which is licensed for betting but not to offer sufficient facilities for betting. A betting operating licence authorises its holder to ‘provide facilities for betting’ (section 65(2)(c) of the Act). Likewise, a betting premises licence authorises premises to be used for ‘the provision of facilities for betting...’ (section 150(1)(e) of the Act). The ability to make up to four gaming machines, within categories B2 – D, available is an additional authorisation conferred upon the holder of a betting premises licence (section 172(8) of the Act); it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.’ (para 19.19)

‘In the Commission’s view it is also important, in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises. Thus, whilst the Commission recognises that betting premises are permitted to offer gaming machines, including B2 gaming machines, the Commission considers that betting should be the primary element of the gambling facilities being offered to customers in such premises. Betting may be provided by way of betting terminals or over a counter (face to face).’ (para 19.20)

‘Accordingly, an operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available.’ (para 19.21)

6.8 A list of machines stakes and prizes is attached at Appendix 4.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 Not applicable.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 The Sub-Committee can grant or reject the application and in accordance with section 169 of the 2005 Act:

(1) Where a licensing authority issue a premises licence they may—

(a) attach a condition to the licence

(b) exclude a condition that would otherwise be attached to the licence by virtue of section 168

(2) A condition attached to the licence under subsection (1)(a) may, in particular, address a matter addressed by a condition excluded under subsection (1)(b).

(3) A condition attached to the licence under subsection (1)(a) may apply in relation to the premises generally or only in relation to a specified part of the premises.

(4) A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence which authorises the holder to carry out the activity in respect of which the premises licence is granted

8.2 Section 153(1) of the Gambling Act 2005 states that 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))

8.3 The licensing objectives 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.

8.4 Section 153(2) of the 2005 Act also states that 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.

8.5 The Sub-Committee in respect of this application is referred to the Guidance issued under Section 25 of the Gambling Act 2005, specifically those sections relating to the licensing objectives, betting premises licenses (including the relevant codes of practice) and hearings, and the Council's Statement of Gambling Principles.

8.6 The Gambling Commission has primary responsibility for issuing operating licences and personal licences, whilst the Licensing Authority has primary responsibility for the issue of Premises Licences under the Gambling Act 2005. Gaming and Betting establishments are normally required to obtain all three licences before they are able to operate lawfully. Premises licences cannot be issued (except in the case of a track) without an operating licence having been obtained from the Gambling Commission.

8.7 Finally, Members are also reminded that in determining the application in accordance with the Gambling Act 2005, Members must also have regard to:

- The rules of natural justice
- The provisions of the Human Rights Act 1998

8.6 **Mandatory Licence Conditions**

8.6.1 Members should be aware that in the event a premises licence is granted in respect of this application, the following mandatory conditions applicable to all types of premises must be attached to that licence:

1. The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the Act shall be displayed in a prominent place within the premises.
2. The layout of the premises shall be maintained in accordance with the plan.
3. The premises shall not be used for—
 - (a) the sale of tickets in a private lottery or customer lottery, or
 - (b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited;
4. In this regulation—
 - (a) “A private lottery” means a private society lottery or a work lottery within the meaning of paragraphs 10 and 11 of Schedule 11 to the 2005 Act; and
 - (b) a “customer lottery” has the same meaning as in Part 3 of Schedule 11 to the 2005 Act.

8.6.2 The following mandatory conditions relating to Betting Premises Licences (other than a track) must also be attached:

1. A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises;
2. (1) Access to the premises shall be from a street or from other premises with a betting premises licence; and (2) Without prejudice to sub paragraph (1), there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or services;

3. Subject to anything permitted by virtue of the 2005 Act, or done in accordance with paragraphs 4, 5, 6 & 7 below, the premises shall not be used for any purpose other than for providing facilities for betting.
4. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.
5. No apparatus for making information or other material available in a form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes-
 - (a) communicating information about, or coverage of, sporting events, including-
 - (i) information relating to betting on such an event; and
 - (ii) any other matter or information, including an advertisement, which is incidental to such an event;
 - (b) communicating information relating to betting on any event (including the result of the event) in connection with which betting transaction may be or have been effected on the premises.
6. No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises
7. No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided in accordance with paragraph 5.
8. (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.
(2) A notice stating the condition in sub paragraph (1) shall be displayed in a prominent place at every entrance to the premises.
9. A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.

8.7 Default Licence Conditions

8.7.1 The Applicant has stated in application form at Part 4 that they do not want to exclude a default condition so that the premises may be used for longer periods; hence the following condition will also be attached the licence if granted:

1. No facilities for gambling shall be provided on the premises between the hours of 10pm on one day and 7am on the next day.

9.0 Risk Management

9.1 Sections 206 to 209 of the Gambling Act 2005 sets out the rights and procedures for making appeals to the Magistrates' Court against the decision of the Licensing Authority.

10.0 Background and Options

10.1 On the 16th May 2013 an application was received for the grant of a Premises Licence Betting (Other than Track) under section 159 of the Gambling Act 2005 for a new William Hill premises at 19/21 High Street, Sandbach, CW11 1AJ.

Responsible Authorities:

10.6.1 The Police Licensing Officer stated that there are no Police representations.

10.6.2 There were no responses from any of the other Responsible Authorities.

Interested Parties:

10.6.3 The Council has also received 2 letters of objection to this application, which have been deemed relevant. Copies of these objections are at appendices 2 and 3 of this report.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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APPENDICES

Appendix 1 – Premises Licence application form.

Appendices 2 and 3 letters of objection to the application.

Appendix 4 – List of Machines stakes and prizes.

Appendix 5 – Plan of the area.

Other documents (to be made available at the meeting)

Cheshire East Statement of Gambling Principles

Guidance issued to Licensing Authorities under the Gambling Act 2005

Conditions and Codes of Practice applicable to Non-remote General Betting Licences

Licence conditions and codes of practice (consolidated version)