

DECISION-MAKER:	LICENSING COMMITTEE
SUBJECT:	APPLICATION FOR A FURTHER EXTENSION TO THE PERIOD OF A PROVISIONAL STATEMENT FOR A LARGE CASINO AT ROYAL PIER, SOUTHAMPTON
DATE OF DECISION:	29 TH NOVEMBER 2022
REPORT OF:	EXECUTIVE DIRECTOR COMMUNITIES, CULTURE AND HOMES – MARY D'ARCY

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
N/A	
BRIEF SUMMARY	
The Licensing Committee is requested to consider and determine a request to further extend the period of a provisional statement for a Large Casino granted to Aspers Universal Limited in respect of Royal Pier Waterfront Development, Mayflower Park, Southampton.	
RECOMMENDATIONS:	
(i)	That the Committee consider a request by Aspers Universal Limited for an extension to the period of the provisional statement, the contents of this report, as well as any relevant representations.
(ii)	That the Committee determine whether to grant or refuse the extension request.
REASONS FOR REPORT RECOMMENDATIONS	
1.	The determination of requests to extend provisional statements is not delegated to Officers, therefore it is for the Committee to consider and determine the request.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
2.	None
DETAIL (Including consultation carried out)	
3.	The Gambling Act 2005 provided the Council with the opportunity to grant a Large Casino Premises Licence. In accordance with the Act, the process for determining the large casino licence was followed and on 22nd March 2016 the Licensing Committee granted a provisional statement for a Large Casino

	to Aspers Universal Limited which was to be developed at the site of Royal Pier Waterfront Development, Mayflower Park, Southampton, SO14 2AQ (Minutes of this meeting can be found in Appendix 1).
4.	The provisional statement was granted on 24th March 2016 and in accordance with Schedule 9 paragraph 10(3) of the Gambling Act 2005, the period of the provisional statement was for three years, with the statement ceasing to have effect on 24th March 2019 (Appendix 2).
5.	For various reasons there was no progress on the Waterfront development in the three years that followed. Aspers sought an extension to the Provisional Statement shortly after it had expired in March 2019. After a period of consultation, the matter was determined by the Licensing Committee on 25 th October 2019 who allowed the application. The provisional statement's new expiry date was then 24 th March 2022. The decision of the Licensing Committee is attached as Appendix 3 and the Notice of Provisional Statement is attached as Appendix 4 .
6.	On 16 th March 2022 Aspers wrote a letter seeking a further extension to the Provisional Statement (Appendix 5). This explained the construction of the large casino had not yet commenced, namely due to circumstances beyond the control of Aspers Universal Ltd, mainly that the reclamation of the land upon which to build had not commenced.
7.	There has been no development on the Waterfront site and all development agreements that were in place have now been terminated. The proposed development included land reclamation at Mayflower Park, repositioning of the park and the Red Funnell ferry terminal. Since the last application in 2019 the UK economy has faced the challenges created by the Coronavirus pandemic and the war in Ukraine, resulting in supply chain issues forcing up prices of raw materials and components. These and other factors leave the UK economy in a very challenging position. The additional evidence provided by Aspers to support their extension request in 2019 cited difficulties funding the project. This has not been mentioned in the latest letter requesting an extension. The letter providing the additional evidence is attached as Appendix 6 . When considering development schemes which have not yet broken ground, the Committee has to consider with some care whether the scheme is likely to materialise, since not all development proposals come to fruition.
8.	When considering the initial applications, the committee was directed towards Schedule 9 para 5(3)(a) Gambling Act 2005, this sets as a key criterion 'which of the competing applications would, in the authority's opinion, be likely if granted to result in the greatest benefit to the authority's area'. In considering this extension request, the question of benefit to the authority's area and therefore deliverability, should again be considered by the committee.
9	The provisional statement being considered for extension restricts the site of the large casino to that which was contained in the original application and cannot be moved. For the site of the casino to be moved either within the confines of the original development plan or elsewhere within the city, a new provisional statement will need to be awarded, effectively restarting the whole process.
10	The Gambling Act 2005 does not set out criteria for the granting or refusal of

	extensions of provisional statements. As such, the Committee has a discretion which it should exercise, and in doing so ensure that the outcomes of the decision are in line with the purposes of the Act. These are both the promotion of the licensing objectives, which are the principal concern at Stage 1 of the casino competition process, and the benefit to the area of the authority, which is the principal concern at Stage 2.
11.	Schedule 9 paragraph 10(4) of the Gambling Act 2005 provides that a Licensing Authority may extend the period of a provisional statement. However, the Gambling Act 2005 contains no procedure for a provisional statement extension application. Given that the grant of the provisional statement for a large casino was a competitive process and a matter of public interest, it was deemed appropriate for there to be a 28-day consultation period. This process was followed in 2019 and was repeated again following the application for an extension earlier this year.
12	On 13 th May 2022 the responsible authorities, those who competed in the original competition for the grant of a large casino provisional statement and those who made representations to the 2019 consultation were advised of the further extension request and public notices were placed around the site at Mayflower Park. A copy of the public notice was also placed in the Southern Evening Daily Echo, a local newspaper on 17 th May 2022 (Appendix 7).
13.	On 8 th June 2022 a representation from Mr. Graham Linecar on behalf of Southampton Common and Parks Protection Society was received (Appendix 8).
14.	On 9 th June 2022 a representation from Ms. Ros Cassy on behalf of Old Town Community Forum and Friends of Town Quay Park (Appendix 9).
15.	On 10 th June 2022 a representation from the Council's Planning team was received stating they had no objections to the extension application (Appendix 10).
16.	On 10 th June 2022 a representation from Mr. Andrew Gravell, local resident, was received (Appendix 11).
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
17.	N/A
<u>Property/Other</u>	
18.	N/A
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
19.	Schedule 9 of The Gambling Act 2005 - Allows for the Secretary of State to provide regulations for the procedure to be followed in relation to such an extension application. These regulations have not been made. In the absence of such regulations the authority should act reasonably and in accordance with the common law rules of natural justice.
<u>Other Legal Implications:</u>	
20.	<i>Crime and Disorder Act 1998</i>

	Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
21.	<i>Human Rights Act 1998</i> The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of Proportionality – the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.
22.	<i>Equality Act 2010</i> Section 149 of the Equality Act 2010 requires the Council to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act. It also requires the Council to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This means having due regard to the need to removing or minimising disadvantages suffered, taking steps to meet the needs of persons, encouraging persons to participate in public life, tackling prejudice and promoting understanding. The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.
RISK MANAGEMENT IMPLICATIONS	
23.	In making decisions Committees should act in accordance with relevant legislation, reasonably and in good faith. The decision could be the subject of judicial review proceedings or statutory appeal.
POLICY FRAMEWORK IMPLICATIONS	
24.	The proposed policy is not contrary to the Council's policy framework

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	Bargate
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Minutes of Licensing Committee meeting from 22 nd March 2016
2.	Provisional Statement (2016)
3.	Licensing Committee decision from 25 th October 2019 granting extension
4.	Provisional Statement (2019)

5.	Letter requesting further extension dated 16 th March 2022
6.	Additional evidence from Aspers dated 7 th May 2019
7.	Copy of notice of application
8.	Representation from Graham Linecar on behalf of SCAPPS dated 8 th June 2022
9.	Representation from Ros Cassy on behalf of OTCF and FoTQP dated 9 th June 2022
10.	Representation from SCC Planning dated 10 th June 2022
11.	Representation from Andrew Gravell dated 10 th June 2022

Documents In Members' Rooms

1.	
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	
2.	