

LICENSING COMMITTEE

4TH SEPTEMBER 2014

GAMBLING ACT 2005 – APPLICATION FOR LARGE CASINO PROVISIONAL STATEMENT BY ASPERS UNIVERSAL LIMITED AT THE PROPOSED ROYAL PIER WATERFRONT DEVELOPMENT, MAYFLOWER PARK, SOUTHAMPTON

The committee has heard an application by Aspers Universal Limited for a provisional statement for a large casino licence at the above address. The hearing today concerned Stage 1 of the application process pursuant to Schedule 9 of the Gambling Act 2005. The applicant has applied for an exclusion of the default condition so as to operate 24 hours per day on Monday to Sunday inclusive.

The description of the premises in the application stated that the casino will be located within the Casino Location Zone at the Royal Pier Waterfront Development; that the casino building will be a multi-use building of four or more levels; that the casino will be located on the ground floor along with shops, bars and restaurants, and that the upper levels will be a car park.

The application plan shows the proposed Royal Pier Waterfront Development bounded in red, a roughly rectangular area within the Development termed “Casino Location Zone, Boundary of Premises (Provisional Statement)” bounded in blue and within that a rectangular area termed “Proposed Casino Demise (Provisional Statement)” hatched in blue. The applicant has also provided a plan of the casino itself, showing the breakdown between gaming, non-gaming and service space.

The application has received representations from the following:

- (1) Southampton Commons & Parks Protection Society (SCAPPS), objecting to the proposal on grounds which are summarised as follows:
 - a. To create the premises would require a planning permission which would destroy Mayflower Park, a valuable public open space.
 - b. Gambling is the wrong use for this prestigious, prominent waterfront site, and may deter other more appropriate uses.
 - c. The juxtaposition of gambling uses with other uses which will attract families and young children is undesirable, particularly in the absence of detailed designs showing how the risk of harm to children will be obviated.
- (2) City of Southampton Society (CoSS), which supports the SCAPPS representation.
- (3) Friends of Town Quay Park (FTQP) a membership organisation representing the community of people who use Town Quay Park and the adjoining Cuckoo Lane Park, some of whom are people living in the local community who, they say, would be affected by the casino development. Its objections can be summarised as follows:
 - a. They are concerned about the impact on the tranquillity of the parks, which are important open spaces, particularly from those coming to and going from the casino.
 - b. They are also concerned about the impact on crime, safety and the noise environment caused by drift into the parks from users of the development, particularly in the current economic climate in which there is a reduction in public protection services.

- c. They urge careful consideration of the ratio of gaming machines to gaming tables given the high staking limits of casino gaming machines, and wish particular scrutiny to be paid to social responsibility measures and their high level oversight and control within the gambling organisations concerned.
- d. FTQP is also concerned about the impact of a 24 hour operation on the quality of life of residents and visitors.

As to these representations:

- The Committee takes the view that it cannot or should not take into account planning objections, since these are outside the legal or practical scope of the Gambling Act 2005 and the objectives which it seeks to promote. Furthermore, the Committee is conscious that, if this development is to proceed, it will require planning permission under a process which will consider whether in planning and policy terms the proposed uses are appropriate, together with the environmental impact on residents, visitors and park users. At that stage, it will obviously consider all representations in relation to the planning merits of the proposal. Furthermore, matters such as nuisance and general amenity are not matters for this Committee, and in any event the Committee is content that such matters will be carefully looked at by its planning colleagues in due course. It does, however, take the view that crime and disorder associated with gambling – which are expressly referred to in the licensing objectives - are properly matters for its consideration and deals with these matters below.
- The Committee is unable to consider the ratio of machines to gaming tables because the ratio is fixed by section 172 of the Gambling Act 2005 and section 172(10) precludes any interference on the matter.

The applicant was represented by Mr. Heslop QC, who adopted all that was said about the development by Kymeira in its application. He emphasised that there are only two large casinos in operation, and Aspers operates both of them in accordance with operating policies and procedures approved by the Gambling Commission. Aspers, he said, had a proven track record and a national reputation. Aspers would not employ contracted-out staff. All staff are trained and employed by Aspers itself. He drew the attention of the Committee to Aspers' Community Action for Responsible Gaming, which involves liaison with community representatives to mitigate any harmful effects of gambling on the community. He said that Aspers' policies and procedures were an adequate answer to the licensing objections made by the interested parties.

He emphasised that nobody had objected to the exclusion of the default condition in this or indeed any of the cases before the Committee.

He assured the Committee that nobody could get into the restaurant without passing the appropriate age controls.

He said that there had been no concerns raised in relation to the children at its Westfield Stratford casino, which was within a large shopping development.

Mr. Heslop was questioned by the Committee about the size of the quiet room shown on the plans. He said that rooms of that size had been found adequate in other casinos.

The Committee questioned the applicant regarding the Community Action for Responsible Gaming. Mr. Noble for Aspers said that the scheme operated in all of Aspers' sites, and liaised with religious bodies, charities and other groups. Gamcare sat on the groups locally. In Swansea the group had liaised with the university over students.

Mr. Noble said that at the entrance there are two sets of doors with Aspers' own security guards at the front door.

He accepted that there may be a condition providing that there should be no visibility of gambling facilities from the exterior of the building.

Mr. Heslop did not wish to make closing submissions.

The Committee accepted that the representations made by Mr. Linecar in relation to the Kymeira application should be carried forward and considered in relation to this application.

The Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005, whether it would grant this provisional statement if it had power to grant more than one premises licence for Southampton. The Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Committee may not have regard to the expected demand for the proposed facility (s 153)(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a) Gambling Act 2005). The Committee confirms that it has obeyed all of these requirements.

The Committee is satisfied that Aspers will be able to operate a casino which is regulatorily compliant, and that any casino would need to have an operating licence from the Gambling Commission which is subject to compliance with the Licence Conditions and Codes of Practice. This includes control of entry to prevent the admission of children.

The Committee has not considered the question of whether there may be crime and disorder in the vicinity arising from the operation of the casino. This is because there is no detailed design for the casino, nor detailed designs for the wider development. These are matters which may be considered in any future gambling premises licence application, the planning process and any application for a Licensing Act 2003 licence.

In the circumstances, the Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application.

For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;
- section 183, which prohibits the use of the premises for gambling on Christmas Day.

With the consent of the applicant, the Committee has also decided to add conditions:

- Prohibiting visibility of gambling facilities from the exterior of the premises.
- Requiring the operation of Challenge 25.

The Committee was impressed with the Community Action for Responsible Gaming and would expect to see more about the scheme at Stage 2 of the competition.

Given that there are competing applications for the large casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. Since other applications have been successful at Stage 1, then those applications will join this one at Stage 2 of the competition.

Decision

The Committee therefore makes a provisional decision to grant the application for a provisional statement and to exclude the default condition as to hours of operation. It also adds the individual conditions referred to above.