

## LICENSING COMMITTEE

4<sup>TH</sup> SEPTEMBER 2014

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

The committee has heard an application by Grosvenor Casinos 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 on land to be reclaimed at Royal Pier, provisionally described as Building RPW Casino, Royal Pier Waterfront, Mayflower Park, Southampton, the casino itself being expected to be sited at ground floor level together with service provision and premises in Planning Use Classes A1-A5, with a multi-storey car park on 3 or more upper levels.

The application plan shows the casino footprint in blue at one end of the larger development, with further plans showing the general disposition of uses in and immediately around the casino.

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. Wade, who stressed that the Rank Group had been involved in the city for 60 years, both in casinos and other leisure facilities. There were 55 Grosvenor casinos in the UK, and Rank had operated casinos for 40 years or more. It was therefore a highly experienced operator, with great experience of operating social responsibility policies. In Didsbury, it had opened a casino next to a high school, but had built up a good relationship with the headmaster and there were no issues whatsoever with children trying to gain access. Similarly, in Southampton the current Grosvenor casino traded next to a cinema. 17 year olds are far more interested in gaining access to leisure facilities, including arcades with flashing lights, than casinos.

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

The Committee asked Mr. Wade what the relationship was between Grosvenor and the developer. Mr. Wade said that the developer would give Grosvenor the space, and Grosvenor would fit it out as it thought appropriate. In answer to a question, he also confirmed that anyone coming into the private function room would be subject to the same checks as those entering intending to play in the casino. Further although there may be two entrances, each would be subject to the same controls.

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 Grosvenor 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 on Responsible Gambling offered by a competitor and has considered whether to attach a condition to this grant requiring a similar scheme. It has decided not to, because it is confident that at Stage 2 the applicant will wish to offer a scheme which provides for community engagement and democratic accountability in the way it promotes socially responsible gambling.

The Committee notes that the plans are at an early stage of evolution and expresses at least some concern about secondary entrances directly adjacent to parkland. No doubt this is something to which the applicant would wish to give close attention as its plans develop.

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 has also decided to attach the individual conditions referred to above.