

Licensing Panel (Gambling Act 2005 Functions)	Agenda Item Brighton & Hove City Council
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Subject:	Application for a Variation of a Bingo Licence under the Gambling Act 2005		
Premises:	Merkur Slots, 9 - 10 St James's Street, Brighton, BN2 1RE		
Applicant:	Merkur Slots UK Limited		
Date of Meeting:	27th June 2023		
Report of:	Head of Regulatory Services		
Contact Officer:	Name:	Emily Fountain	Tel: (01273) 292143
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Wards Affected:	Queens Park		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 To determine an application for a Variation of a Bingo Licence under the Gambling Act 2005 for **Merkur Slots**.

2. RECOMMENDATIONS:

2.1 To determine an application for a Variation of a Bingo Licence under S187 of the Gambling Act 2005 for **Merkur Slots**.

2.2. The application is for:

A Variation of a Bingo Licence under the Gambling Act 2005.

- To remove the default hours for bingo as stated in 16c of the application
- To remove condition 1 on the premises licence restricting the hours permitted for machines to be made available
- To add additional safeguarding license conditions following discussions with the police.

	Existing	Proposed
Times when premises to be available for use for gambling facilities	Every Day to close at 24:00hrs	Every Day 00:00 – 24:00hrs

2.3 An application has been made by Merkur Slots UK Limited for variation of an existing Bingo licence for 9-10 St James’s Street, Brighton, BN2 1RE.

2.4 A copy of the application form is attached as Appendix A. A map detailing the location of the premises is attached at Appendix B.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Representations received

Details of the representations made are notified to applicants on receipt by the Licensing Authority. A summary appears below:

3.2 One representation was received. It was received from Sussex Police (Appendix C).

3.3 Representation received had concerns relating to:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.4 Supporting information from the applicant can be found at Appendix D (Part 1, Part 2 and a Skeleton Argument).

4.0 Principles to be applied

4.1 The Act (s153) sets out that the licensing authority, in exercising their functions, shall 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 under section 24 of the Act (Gambling Commission Codes of Practice);
- (b) in accordance with any relevant guidance issued by the Commission under section 25 (Gambling Commission Guidance to Licensing Authorities);

Guidance to licensing authorities (gamblingcommission.gov.uk)

- (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 s 349 of the Act (Statement of Licensing Policy – Gambling Act 2005) (subject to paragraphs (a) to (c)).
Gambling Policy (Statement of Principles) 2022 - 2024

4.2 The Gambling Commission Codes of Practice as mentioned above describes the arrangements that should be made by a person providing facilities for gambling for the purpose of:

- (a) ensuring that gambling is conducted in a fair and open way;
- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling, and
- (c) making assistance available to persons who are or may be affected by problems related to gambling.

4.3 The codes may also include provision about how facilities for gambling are advertised or described.

4.4 A copy of the Gambling Commission’s Codes of Practice (consolidated for all forms of gambling) September 2022, can be found via the following link:
Licence Conditions and Codes of Practice (gamblingcommission.gov.uk)

4.5 The Act (s153(2)) also sets out that in determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which are proposed.

5.0 Mandatory and Default Licence Conditions attached to Bingo Premises licences

5.1 The Secretary of State provides for mandatory conditions (s167) and default conditions (s168) to be attached to specified premises licences. These can be found in The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007.

5.2 The default conditions for a bingo premises licence set out the opening times which can be found under Schedule 2, Part 2 of 5.1: Subject to paragraph 2, no facilities for gambling shall be provided on the premises between the hours of midnight and 9am. 2. The condition in paragraph 1, shall not apply to making gaming machines available for use.

5.3 A copy of the mandatory and default conditions applicable to a bingo premises can be found [here](#).

5.4 Section 187 of the Act provides for that where a licensing authority issue a premises licence:

- (1)The holder of a premises licence may apply to the licensing authority to vary the licence by—
- (a) adding, amending or removing an authorised activity,
 - (b) amending another detail of the licence,

- (c) excluding a condition attached by virtue of section 168, or
- (d) adding, amending or removing a condition attached to the licence under section 169.

5.5 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.

6. COMMENTARY

Commentary on gambling policy

6.1 The following extracts from [Brighton & Hove City Council Gambling Policy \(Statement of Principles\) 2022 - 2024](#) are considered relevant to this application and numbered as they appear in the policy:

General

1. Introduction

- 1.1. Under the Gambling Act 2005 (the Act) Brighton and Hove Council is the licensing authority responsible for licensing premises for gambling activities as well as granting various other gambling permits. In this document, unless otherwise stated, any references to the Council are to the Brighton and Hove Licensing Authority.
- 1.2. The Council will carry out its functions under the Act with a view to aiming to permit the use of premises for gambling in so far as it is reasonably consistent with the three licensing objectives set out at Section 1 of the Act. The licensing objectives are:
 - 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.
- 1.3. The Council is aware that in making decisions about premises licences, it should aim to permit the use of premises for gambling in so far as it thinks it is:
 - in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonable consistent with the licensing objectives, and
 - in accordance with this document.

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

10.1 Applicants for premises licences will have to hold an operating licence from the Gambling Commission before the premises licence can be issued. The licensing authority will not need to investigate the suitability of an

applicant since the Commission will have already done so for both operating and personal licences.

10.2 If, during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.

10.3 Licensing authorities will need to consider the location of premises in the context of this objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems, e.g. organised crime, the authority should think about what controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence. Section 169 of the Act allows the authority to impose conditions to prevent disorder.

10.4 Consideration may be given to imposition of conditions concerning:

- Security and door supervision – guarding premises against unauthorised access or occupation, or against outbreaks of disorder or against damage may only be undertaken by Security Industry Authority licensed personnel.
- As set by regulation.

10.5 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if 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.

12 Protecting children and other vulnerable persons from being harmed or exploited by gambling

12.1 The Act provides the following definition for child and young adult in Section 45:

Meaning of “child” and “young person”

(1) In this Act “child” means an individual who is less than 16 years old.

(2) In this Act “young person” means an individual who is not a child but who is less than 18 years old.

For the purpose of this section, protection of children will encompass both child and young person as defined by the Act.

12.2 The Council will pay particular attention to any codes of practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos.

12.3 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

12.4 In the case of premises licences, the Council is aware of the extensive requirements set out for operators in the Gambling Commission's Code of Practice. In this document, the Gambling Commission clearly describe the policies and procedures that operators should put in place regarding:

- Combating problem gambling
- Access to gambling by children and young persons
- Information on how to gamble responsibly and help for problem gamblers
- Customer interaction
- Self exclusion
- Employment of children and young persons

12.5 All applicants should familiarise themselves with the operator licence conditions and codes of practice relating to this objective, and determine if these policies and procedures are appropriate in their circumstances. The Council will communicate any concerns to the Gambling Commission about any absence of this required information.

12.6 Applicants may also like to make reference to the Sussex Safeguarding Adults Policy and Procedures which provides extensive guidance on identifying vulnerable people at risk of abuse or neglect and how to report a concern. This document can be accessed via <https://sussexsafeguardingadults.procedures.org.uk/>

12.7 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Gambling Commission, in its Guidance to Local Authorities, does not seek to offer a definition for the term "vulnerable people" but will, for regulatory purposes, assume that this group includes people: "who gamble more than they want to, people who gamble beyond their means, elderly persons, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or because of the influence of alcohol or drugs".

Operators should make information publicly available via leaflets, etc about organisations that can provide advice and support, both in relation to gambling itself, to debt and mental wellbeing, e.g. GamCare, Gamblers Anonymous, Gordon House Association, National Debtline, local Citizens Advice Bureaux, Samaritans and independent advice agencies.

12.8 Applicants should consider the following proposed measures for protecting and supporting vulnerable persons, for example:

- leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet, such as toilets;
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long)

customers are gambling, as part of measures to detect persons who may be vulnerable.

- trained personnel for the purpose of identifying and providing support to vulnerable persons
- self exclusion schemes
- operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people
- posters with GamCare Helpline and website in prominent locations
- windows, entrances and advertisements to be positioned or designed not to entice passers-by.

12.9 It should be noted that some of these measures form part of the mandatory conditions placed on premises licences.

12.10 The Council may consider any of the above or similar measures as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposed by the applicant.

12.11 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 that are adult-only environments. Children must be protected from being “harmed or exploited by gambling” which in practice means preventing them from taking part in, or being in close proximity to, 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.

12.12 Specific measures to prevent this may include:-

- Supervision of entrances
- Segregation of gambling from areas frequented by children
- Supervision of gaming machines in non-adult gambling specific premises
- Gaming machines in betting shops should not be visible from outside the premises
- Enhanced DBS (Disclosure and Barring Service) checks may be required for all applicants in relation to Family Entertainment Centres and declaration from an applicant that he or she has not been convicted of a relevant offence.

These considerations will be particularly relevant on tracks (where children will be permitted in the betting areas on race-days).

12.13 Consideration must be given, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations will need to be balanced against the authority’s objective to aim to permit the use of premises for gambling.

12.14 The licensing authority recognises Brighton & Hove Children’s Services as being competent to advise on matters relating to the protection of children

from harm. Applicants shall copy their applications to: Head of Safeguarding, Brighton & Hove City Council, Children's Services, Moulsecoomb Hub North, Hodshrove Lane, Brighton, BN2 4SE in its capacity as the responsible authority.

12.15 Children are permitted to enter family entertainment centres and may play category D machines.

Local Area Profile

13.20 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Council has published a local area profile. This profile, compiled in conjunction with the Public Health Intelligence Team, can be obtained from [Public Health Framework for Assessing Alcohol Licensing | Tableau Public](#).

13.21 The local area profile should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the profiles, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent licensing sub-committee when they determine an application that has received representations.

13.22 The Council recognises that it cannot insist on applicants using the local area profile when completing their risk assessments. However, an applicant who decides to disregard the profile may face additional representations and the expense of a hearing as a result.

Conditions

13.23 The Council is aware that the Secretary of State has set mandatory conditions and default conditions and the Gambling Commission has set Licence Conditions and Codes of Practice which are necessary for the general good conduct of gambling premises, therefore it is unlikely that the Council will need to impose individual conditions imposing a more restricted regime in relation to matters that have already been dealt with. 13.24 Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Council will attach individual conditions to address this.

13.25 Any conditions attached to a licence issued by the Council will be proportionate and will be:

- 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 and/or related to the area where the premises is based
- fairly and reasonably related to the scale, type and location of premises
- consistent with the licensing objectives, and
- reasonable in all other respects.

13.26 Decisions about individual conditions will be made on a case by case basis, although there will be a number of control measures the Council will consider using, such as supervision of entrances, supervision of adult gaming machines, appropriate signage for adult only areas, etc. There are specific comments made in this regard under each of the licence types in this policy. The Council will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

13.27 Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the Council may consider licence conditions to cover issues such as:

- proof of age schemes
- use of security to minimise risk of disturbances including CCTV, SIA licensed security presence at the venue.
- supervision of entrances
- supervision of machine areas
- a reduction in the number of betting machines (betting premises)
- the staffing of premises, including restricting single staffing operations (no lone working) due to concerns over timely age verification, safety of staff, supervision, ability to comply with company policies on problem gambling, and the ability to provide brief interventions.
- physical separation of areas
- location of entrance points
- notices/signage
- specific opening hours
- a requirement that children must be accompanied by an adult
- enhanced DBS checks of the applicant and/or staff
- support to persons with gambling addiction, including outline the amount and content of gambling harms support advertising that should be in the premises (including local treatment support).
- Provision of leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet, such as toilets
- policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as pre and post school hours, and school holidays
- policies to address the problems associated with truant children who may attempt to gain access to premises and gamble
- any one or a combination of the measures as set out in this policy.

13.28 This list is not mandatory or exhaustive and is merely indicative of examples of certain measures which may satisfy the requirements of the licensing authority and the responsible authorities, depending on the nature and location of the premises and the gambling facilities to be provided.

13.29 There are conditions which the Council cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible for the applicant 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 this provision prevents it being reinstated) and
- conditions in relation to stakes, fees, winnings or prizes.

17 Bingo Premises

17.1 There is no official definition for bingo in the Gambling Act 2005, however, from a licensing point of view there is a category of premises licence specifically for bingo premises which is used by traditional commercial bingo halls for both cash and prize bingo. In addition, this premises licence will authorise the provision of a limited number of gaming machines in line with the provisions of the Act (see Appendix 1).

17.2 The Council is aware that it is important that if children are allowed to enter premises licensed for bingo, they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, then the Council will ensure that:

- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose, a rope, floor markings or similar provision will not suffice and the Council may insist on a permanent barrier of at least one meter high
- Only adults are admitted to the area where the machines are located
- Access to the area where the machines are located is supervised at all times
- The area where the machines are located is arranged so that it can be observed by staff
- 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
- Children will not be admitted to bingo premises unless accompanied by an adult

17.3 The Gambling Commission has provided Guidance for Licensing Authorities and Licence Conditions and Code of Practice which are applied to Operators' Licences. The Council will take this into consideration when determining licence applications for bingo premises.

17.4 Where certain measures are not already addressed by the mandatory/default conditions, the Gambling Commission Code of Practice or the applicant, the Council may consider licence conditions to address such issues.

17.5 The Gambling Commission has issued Codes of Practice relating to Bingo premises and the Licensing Authority expects all applicants to comply with these codes. The Licensing Authority will not look favourably upon an application where an applicant seeks a Bingo Premises Licence with the sole intention of placing Category B2 Gaming Machines only in the premises with no provision for facilities for bingo, as this is not considered to be in the spirit of the Act. This is referred to in more detail in the Gaming Machines section of this Policy Statement. Applicants and premises licence holders are reminded of the Gambling Commission's operator licence conditions requiring that bingo is provided as the primary activity in any premises that hold or apply for bingo premises licence.

17.6 Where bingo is permitted in alcohol-licensed premises, this must be low turnover bingo only and applicants are expected to comply with any Codes of Practice and advice issued by the Gambling Commission. High turnover bingo will require a Bingo Operating Licence. Definitions of low and high turnover bingo are available by contacting the Licensing Team or by referring to the Gambling Commission's website.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The Gambling Act 2005 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted Michael Bentley Date: 21.06.2023

Legal Implications:

- 7.2 Any decision taken by the Council in regard to determination of licences, permits and registrations should aim to permit the use of premises for gambling in so far as it is reasonably consistent with the licensing objectives, which are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - Ensuring gambling is conducted in a fair and open way.
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling

7.3 The Licensing sub-committee must take such of the following steps as it considers necessary with a view to promoting the licensing objectives and in accordance with the principles as set out at paragraph 4 of this report, and:

- Grant the application as applied for
- Grant the application and exclude any default conditions

- Grant the application with conditions provided these do not contravene s169(4) of the Act and prevent compliance of the Operating Licence, or mandatory conditions.
- Refuse the application

187 Application to vary licence

(7) In granting an application for variation a licensing authority—

(a) shall specify a time when the variation shall begin to have effect, and

(b) may make transitional provision.

7.4 The licensing authority must have regard to its Gambling Policy Statement of Principles and the guidance issued by the Gambling Commission in carrying out its functions.

Lawyer Consulted: Rebecca Sidell Date: 21.03.23

7.5 Equalities Implications:

Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

Equality and Diversity/Cohesion and Integration At the time of writing this report there were no implications for equality and diversity. Any decision taken by the Licensing Sub-Committee will be in accordance with the Gambling Act 2005.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Application form
2. Appendix B – Map of area
3. Appendix C – Representation
4. Appendix D – Supporting information from applicants (Part 1, Part 2 and a Skeleton Argument)

Documents in Members' Rooms

Gambling Policy (Statement of Principles) 2022 – 2024.

