

LONDON BOROUGH OF HARINGEY

LICENSING SUB-COMMITTEE

1ST NOVEMBER 2022

**APPLICATION FOR VARIATION OF ADULT GAMING CENTRE PREMISES
LICENCE**

GAME NATION

450-454 HIGH ROAD, TOTTENHAM

SKELETON ARGUMENT OF APPLICANT

*Key: A1 = Agenda Papers page 1
S1 = Supplemental Papers page 1*

Introduction

1. The purpose of this skeleton argument is to present a brief summary of the application, to set out the legal principles, and to draw the Sub-Committee's attention to the main documents in the case.
2. On 6th October 2020, the Licensing Sub-Committee granted City Gaming Limited ("the Applicant") an adult gaming centre ("AGC") premises licence for 450-454 High Road Tottenham (A41). Condition 1 of the licence set opening hours of 0900 – 2400 on Monday to Saturday and 0900 to 2300 on Sunday. It opened its doors in June 2021.
3. Over the last 16 months, the premises has traded without criticism or harm to the licensing objectives. This is because of the competence and experience of the Applicant and the extensive legal obligations attaching to its operating and premises licences.
4. The Applicant now seeks to remove condition 1 from the licence to enable it to trade to the default hours set by Parliament for AGCs, namely 24 hours.
5. As explained below, the Gambling Act 2005 is unlike the Licensing Act 2003 in that it creates a statutory aim to permit. The hours restriction should only be retained if there

is evidence that it is necessary in order to promote the licensing objectives. There is no such evidence in this case.

The main documents

6. The main documents are:

- The premises licence (A41)
- Admiral premises licence (S384)
- The Applicant's Local Area Risk Assessment (A14)
- Adam Hodges (CEO) witness statement (S1)
- Stuart Green (Chief Commercial Officer) witness statement (S8)
- Graham Glanfield (Compliance Officer) witness statement (S15)
- Adrian Studd (independent expert) witness statement (S18)

Summary of facts

City Gaming Limited

7. The Applicant operates 58 AGCs throughout London and the Southeast, in a variety of areas, including challenging areas such as Barking, Dagenham and Wood Green, and areas with similar levels of deprivation such as Brent, Lewisham and Margate.
8. It has an experienced management team. It operates comprehensive systems to promote the licensing objectives. It trains its staff appropriately to ensure that its systems are properly implemented.
9. As a result, the Applicant may be considered a highly competent operator.
10. The Applicant has never been subject to any review or any kind of regulatory intervention.
11. The Applicant is subject to compliance assessments by local councils across its estate. These visits have yielded no expression of concern or criticism.

12. Between July and September 2022, the Gambling Commission conducted an assessment of the Applicant, including inspections of several of its premises. The outcome was that the Applicant was commended on its operation.
13. It is right to point out that AGCs are not betting offices. The product, ambience, layout, customer demographic and staffing methods are all different. AGCs provide a lounge-type environment, attractive to men and women, generally older than in betting offices, and with much lower levels of simultaneous attendance. Staff are not behind a counter but walk the premises, greet and interact with the customers and ensure that a convivial atmosphere is maintained. The layout and staffing ensure that poor behaviour is spotted and acted on immediately. There are no peaks in attendance around race times. Rather, customers visit in ones and twos, play the machines for a while, enjoy a cup of tea or coffee and then leave. This accounts for the dearth of crime in AGC premises and the lack of groups loitering outside.

24 hour licences

14. The Applicant operates many 24 hour licences. One of these is in Wood Green, Haringey. Having been permitted to open for 24 hours there, it has done so without regulatory intervention, criticism or harm to the licensing objectives. This is important, because it speaks to the quality of the Applicant and its ability to operate 24 hour licences without harm, including in Haringey.
15. Its experience is that its 24 hour venues operate at night much as they operate during the day, with low numbers of people coming in to play the machines, enjoying a hot drink and going on their way without impact on the local environment. Indeed, the Police have commented that their presence, well-lit and with CCTV cameras inside and out, helps to control crime. The Applicant enjoys excellent relationships with local police forces.
16. The main difference between night and day is that at night there are 2 x staff members and at least 1 x SIA operative, with use of a maglock so that customers are buzzed in rather than being able to enter at will.

The Tottenham licence

17. As stated above, the Applicant's Tottenham licence was granted in October 2020. The Applicant invested £500,000 in the premises and hired 15 local staff members before opening in June 2021. It therefore has 16 months experience of trading in Tottenham before making this application.
18. The premises are subject to a high degree of regulation in order to support the licensing objectives, including the following:
 - Premises and their management and operation are subject to the Gambling Commission's extensive Licence Conditions and Codes of Practice ("LCCP") applicable to adult gaming centre operating licences. The relevant LCCP is at pages S39 – S87. It is designed to protect all of the licensing objectives, and forms a detailed code for operators to follow, which the Applicant does.
 - Premises licences are subject to mandatory and default conditions set by the Secretary of State with the approval of Parliament. The mandatory conditions include an absolute prohibition on under 18s, and also on alcohol in AGCs.
 - The number of machines, the way they operate and their stake and prize limits, are strictly regulated through the Gambling Act 2005 (by Parliament), regulations (by the Secretary of State) and technical standards (by the Gambling Commission). For example, at least 80% of the machines in AGCs have the same stake and prize limits as pub fruit machines, with 20% governed by the same limits as other high street gambling establishment (bingo premises and betting offices).
 - In this case, the applicant's premises licence is subject to 39 detailed conditions, excluding the hours condition it now seeks to vary (A41).
19. Subject to all of those controls, the Applicant's operation in Tottenham has been a success. Daliah Barrett, Licensing Team Leader at Haringey Council has informed the Applicant that members of her team had visited the premises and provided a positive report of its compliance with the licensing objectives and that there had been no incidents.

20. Good relations have been established with local police. In the whole period since opening, there have been just 7 police call-outs, all when people had been asked to leave but had refused to do so. The Applicant has in fact assisted the Police with CCTV footage to help them investigate crime.
21. Before opening, the Applicant wrote to all the local third sector organisations concerned with protecting vulnerable people. None replied or expressed any concern about the Applicant's operation, then or since.
22. Nor has any resident or local business complained to or about the Applicant in the 16 months it has traded here. It trades in a low-key way and without impact on the street environment.
23. The Applicant has engaged Adrian Studd, formerly a senior police officer, to conduct observations on the premises and the locality, to consider crime statistics locally and to respond to the representations made in this case. The Sub-Committee is respectfully referred to his report, which is couched in neutral, expert terms. His conclusions are:

“81. The High Street is a busy environment with a diverse range of shops, pubs, cafes and other retail units. It is where people meet, drink, congregate and come into contact with each other. This is inevitably where crime takes place and gets reported. There is no evidence that this is connected to the existing AGC premises any more than the other premises on the High Road.

82. From both my observations and the crime analysis it is clear that Game Nation currently operates with no negative impact on the area. I am confident that if this application is granted and the premises is permitted to open 24/7 the premises will continue to have no negative impact on the area.”

24. The Sub-Committee is invited to accept the evidence of Mr. Studd, which is both thorough and authoritative.

The Admiral licence

25. Immediately opposite, at 475 High Road, is another AGC in the hands of Admiral. In contrast to the Applicant, Admiral has no conditions on its premises licence (S384). However, also in contrast to the Applicant, Admiral has no hours restriction on its licence. It is permitted to trade for 24 hours per day, and does so. It is a long-standing licensee, with its licence dating back to the inception of the Gambling Act 2005 in 2007. Over the last 15 years, nobody has sought to review the licence on the basis that its licensing hours were harming the licensing objectives.
26. The Applicant is unaware of any evidence based on the licensing objectives why it should not be permitted to trade to the same hours as Admiral.
27. The Applicant has recently been informed that Admiral has been served with a Community Protection Warning by the Council. However, even then, neither the licensing authority, nor any responsible authority nor anyone else has seen fit to review Admiral's licence, whether to reduce its hours or otherwise. By this application, the Applicant, which has traded beyond reproach, seeks parity of treatment.

The law

28. As the Sub-Committee has been advised, there is a statutory aim to permit applications under the Gambling Act, provided that the application accords with the Commission's Codes and guidance, is reasonably consistent with the licensing objectives and accords with the Council's policy (A1 para 7.1).
29. The default hours for AGC premises set by Parliament are 24 hours. In this case, those hours have been reduced by the imposition of a condition on the premises licence. However, the condition may only be justified if there is evidence that it is necessary (see Commission's Guidance, A61 paragraph 9.28).

Applying the necessity test

30. Based on the Applicant's history and competence as an operator and its track record in Tottenham, there is no evidence, let alone sufficient evidence, that a curtailment of hours is now necessary. To the contrary, the clear evidence is that, given the extensive

legal obligations attaching to the Applicant's operation and its demonstrated ability to operate these premises without harm, it is not necessary to curtail its operating hours.

The representations

31. The representations which have been made have been considered and answered by Mr. Studd in his report.
32. Briefly, the Applicant is respectful of the views of those making representations. However, the representations mainly rely on the fact that there is crime and anti-social behaviour in the locality. But they are silent on such harm occurring in Game Nation. It is clearly not enough to state that there is crime and anti-social behaviour locally. The question is whether, by permitting the Applicant to trade longer hours, it will add to it. There is no evidence whatsoever that it will.
33. Certain representations say that longer hours will represent a risk to vulnerable people. However, there is no criticism of the Applicant's measures for protecting vulnerable people and no evidence of harm to vulnerable people caused by the Applicant's operation. In the absence of any actual evidence, the representation is a generalised opposition to more gambling opportunities in Tottenham. But as the Commission advises in its Guidance (paragraph 5.34):

An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area

34. Similarly, a number of objections are simply opposed to gambling. However, the question is not whether gambling is an acceptable activity, but whether the instant operation is reasonably consistent with the licensing objectives, bearing in mind that Parliament has pronounced that where it is then the aim of the licensing authority should be to permit it.
35. Finally, complaint is made that there are too many gambling premises. However, Parliament has stated that the number of premises and the demand for them is irrelevant. There is no such thing as a cumulative impact policy under the Gambling Act.

Conclusion

36. The Applicant is a highly competent operator which operates 24 hours in many locations, including in Haringey, without any criticism or demonstrable harm. It has never been reviewed or subjected to any kind of regulatory sanction.
37. It has provided a gaming facility in Tottenham for 16 months, subject to extensive legal requirements, again in an exemplary manner.
38. Strikingly, although there have been representations in this case, principally concerning the challenges of the locality, none have anything adverse to say about the Applicant's premises, with which this application is concerned.
39. The Applicant is confident, based on its experience and the independent evidence it has submitted, that if this application is allowed, it will continue to operate without harm. It is, finally, fair to point out that this is an evidential hearing, and there is no actual evidence to the contrary.
40. Accordingly, the Sub-Committee is respectfully invited to grant this application.

PHILIP KOLVIN KC
28TH October 2022

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