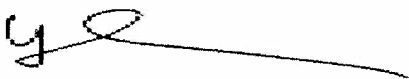


**Haringey** Council

Report for:	Cabinet 20 <sup>th</sup> December 2011	Item number	
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Title:	Response to the Scrutiny Review of the Clustering of Betting Shops
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Report authorised by :	Lyn Garner- Director Of Place and Sustainability 
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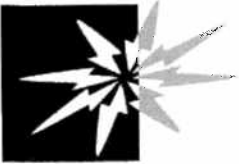
Lead Officer:	Eubert Malcolm, Group Manager Regulatory Services  Telephone: 0208 489 5520 eubert.malcolm@haringey.gov.uk
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**1. Describe the issue under consideration**

- 1.1 Currently there is no ability to consider the clustering of betting shops within an authority. The Gambling Act clearly specifies that the Licensing Authority shall aim to permit applications for a premises licence so long as this conforms to relevant Codes of Practice, any relevant guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with the policy statement published by the Licensing Authority.
- 1.2 The Clustering of Betting Shops in the Scrutiny Panel report clearly identified as an issue that cuts across council services and partners. This report provides a proposed Cabinet response to recommendations made by an Overview and Scrutiny review of Clustering of Betting Shops in Haringey and reported to Cabinet on 4 October 2011.

**2. Cabinet Member Introduction**

- 2.1. There has been widespread concern amongst local residents, partners, Councillors and the MP for Tottenham regarding the clustering of betting shops in Haringey. We have been lobbying the government on this issue extensively since 2008. We have also piloted a challenge through the courts to test our licensing powers. Unfortunately, despite all our efforts, we have



## **Haringey Council**

not been able to pin down particular licensing criteria to the betting shop that was appealed in the courts. The Counsel's opinion was very clear that in effect no new application could be refused through the licensing criteria.

- 2.2. Clustering of betting shops has an adverse impact on our communities. They tend to cluster in poorer geographical areas and exploit people. I continue to lobby both the Government and the Local Government Association for a change to the Gambling Act (2005) and associated guidance as well as planning requirements, to ensure that effective control measures are put in place.

- 2.3. I welcome the scrutiny's far reaching work and am pleased to note that overall the findings reflect the Cabinet's lobbying priorities. Although, I am pleased to note the local Liberal Democrat colleagues' complimentary work on the committee, I must emphasize my dismay about how the local Liberal Democrat MP for Hornsey and Wood Green did not support a proposal put forward by the Tottenham MP to introduce a control through the planning route to further control betting shops.

### **3. Recommendations**

- 3.1 That the Cabinet is asked to agree the scrutiny report recommendations and actions proposed as set out in Appendix 1.

### **4. Reason for recommendation(s)**

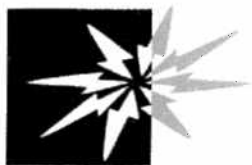
- 4.1 The Scrutiny review of the Clustering of Betting shops in Haringey heard evidence from a wide range of stakeholders and concluded that national licensing and planning regulations should be changed and other local initiatives should be further explored subject to resources and effectiveness including local planning and licensing controls. This report provides a response to the recommendations.

### **5. Other options considered**

- 5.1 All options considered are contained within the report.

### **6. Background information**

- 6.1 The Clustering of Betting Shops in Haringey has attracted considerable community concern in 2009 and 2010 and prompted substantial coverage in local media. The Licensing Authority (the Local Authority) under the Gambling Act 2005 has the statutory duty to issue Premises Licenses. We also consult and determine a Statement of Gambling Policy which supports our priorities for 'Safer and Cleaner' public spaces, 'Wellbeing' and 'Independent Living'.

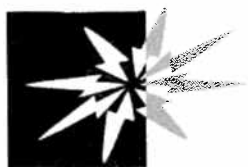


**7. Comments of the Chief Financial Officer and Financial Implications**

- 7.1 Members are asked to note the report at this point and a further report will be brought back at a later date with cost information.
- 7.2 The recommendations cover a range of Services across the Council and there will be some resource implications for these services. Any proposals would need to be within existing budgets.

**8. Head of Legal Services and Legal Implications**

- 8.1 The November 2010 Government guidance on the use of Article 4 Directions (A4Ds) makes it clear that they should only be made in exceptional circumstances where evidence suggests that the exercise of development rights would harm local amenity or the proper planning of the area.
- 8.2 There is a need to clearly identify the potential harm that the direction is intended to address. In terms of justifying the use of an A4D as appropriate there is a need to consider whether the exercise of permitted development rights would "undermine local objectives to create or maintain mixed communities".
- 8.3 The Council would need to demonstrate that it was satisfied that it is expedient that development that would normally benefit from permitted development rights should not be carried out unless planning permission is granted for it on application (for an A4D to have immediate effect, rather than giving 12 months notice of its operation, then it would also be necessary to demonstrate that the development to which the A4D relates would be prejudicial to the proper planning of its area or constitutes a threat to the amenity of the area).
- 8.4 The wider the area of the A4D the stronger the justification needed for the withdrawal of permitted development rights (the examples given of National Parks & AONB indicate a high level of pre-existing, nationally recognised protection, which does not appear to be the case here).
- 8.5 As Circular 9/95 makes clear (para.1) ".....pd rights have been endorsed by Parliament and consequently should not be withdrawn locally without compelling reasons" and that "Such action will be rarely justified unless there is a real and specific threat i.e. there is reliable evidence to suggest that permitted development is likely to take place which could damage an interest of acknowledged importance and which should therefore be brought within full planning control in the public interest".
- 8.6 A4Ds of this type would require the approval of the Secretary of State (SoS). It is interesting to note that a recent attempt to remove betting shops from Class A2 (as proposed by our local Tottenham MP) was defeated in Parliament, and it might be difficult to persuade the SoS to approve the use



of an A4D for this purpose which Parliament itself has so recently considered and rejected.

## **9. Equalities and Community Cohesion Comments**

- 9.1 An Equalities Impact Assessment will be undertaken when the Statement of Gambling Policy is revised in 2013. The Equality Impact assessment must consider the impact on different communities and ensure full consultation across all relevant protected equality groups.

## **10. Policy Implications**

- 10.1 The Licensing Authority (the Local Authority) under the Gambling Act 2005 has a statutory duty to issue Premises Licenses. A Statement of Gambling Policy is consulted and determined which supports priorities for 'Safer and Clearer' public spaces, 'Wellbeing' and 'Independent Living'.

## **11. Use of Appendices**

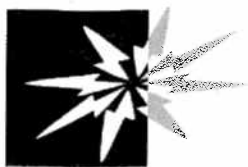
- 11.1 Appendix 1- Table of recommendations and service comments.

## **12. Local Government (Access to Information) Act 1985**

- 12.2 Scrutiny Review of the Clustering of Betting Shops in Haringey 2011

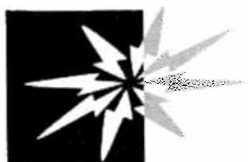
## **13. Response to Overview and Scrutiny Panel Recommendations**

- 13.1 The Scrutiny Panel has identified 9 recommendations. These are listed in Appendix 1 together with a service response following consultation with the council services and partners affected. Most services contributed to the review and have accepted recommendations contained although some resource implications are identified.
- 13.2 Recommendation 1 required the concept of 'clustering' should be clearly defined and appropriately reflected in relevant planning policy documents. The panel also recommended that the planning service should consider the development of a 'clustering' policy to be developed.
- 13.3 The Planning Service is reviewing the impact of betting shops and clusters particularly in Tottenham and will report back on possible policy options for control if the research shows that betting shops and clustering has had an adverse impact on shopping variety and vitality - this will be reported to a later Cabinet in December 2011.
- 13.4 Recommendation 2 requested that the Licensing Team establish a Responsible Gambling Premises Scheme, similar to the Responsible Licensee Scheme already in operation in Haringey. Local gambling



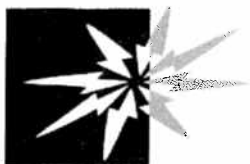
operators should be encouraged to sign up to this voluntary agreement which sets clear standards and procedures.

- 13.5 The Licensing Team has commenced work with the betting operators to establish such a scheme. The panel recommend that the Licensing Team establish a Responsible Gambling Premises Scheme. It is proposed that the various betting operators are invited to take part in such a scheme. This would be a voluntary scheme. Discussions have also commenced with the police for joint working in this area.
- 13.6 Recommendation 3 required the development of a full appraisal of the costs and benefits of adopting an Article 4 Direction. The Cabinet member for the Environment proposes to hold a wider stake holder debate on the matter in the new year.
- 13.7 Recommendation 4 highlighted the need to continue to lobby central government for amendments to the Gambling Act (2005).
- 13.8 The Cabinet Member for the Environment has lobbied both Government and the Local Government Association on numerous occasions for change to the Act and guidance. The Cabinet Member wrote to the Secretary of State for Culture, Media and Sport, expressing concern that local authorities have no effective controls to limit the number of gambling premises opening in their boroughs. The letter reflected on the experiences of Haringey and a Counsel opinion that in effect no new application could be refused.
- 13.9 Initially the response from the Department of Culture Media and Sport (DCMS) was that it was too early to make changes. However, following lobbying through the Local Government Association there was an announcement on the 2 December 2008 by the Prime Minister stating that he would ensure that "local communities and their authorities have sufficient powers to prevent the clustering of betting shops in areas where this is a problem." This commitment was subsequently confirmed as a Government priority in the Queen's speech.
- 13.10 It was understood that there would be an early review of the powers available to local authorities and a published report of the findings and proposals. To date no report has been published. In February 2010 the Cabinet Member wrote again, seeking confirmation of whether the review of powers to deal with the clustering of betting shops had been undertaken, and the date by when the findings would be published. Officers also supplied submissions supporting the need for change in legislation and guidance.
- 13.11 In July 2010 the Cabinet Member wrote again, to Secretary of State at DCMS. In this letter an explanation was sought on why Article 4 Directions were an inappropriate power for dealing with the clustering of betting shops, and highlighting the increasing perception that betting shops are linked to



crime and low level disorder. In response the Minister for Tourism and Heritage wrote to confirm that he believed that Article 4 Directions under the Town and Country Planning Act are appropriate where there is a “real or specific threat” and discussions were being undertaken on how guidance could be improved so that where there is a link between crime and disorder and specific premises action could be taken.

- 13.12 The Scrutiny Review found that no evidence was received in this review to link the clustering of betting shops to crime and disorder. Local police did conclude however, that betting shops had become a focal point for crime and ASB in areas where this was already known to be a problem.
- 13.13 Recommendation 5 stated that the Council should write to (DCMS) and the Gambling Commission regarding concerns associated with Fixed Odds Betting Terminals including; Licenses for Fixed Odds Betting Terminals are considered separately from those of premises licenses and are not allowed as part of the wider license and for the retention rates of Fixed Odds Betting Terminals to be displayed on each machine. The issue of separate Fixed Odds Betting Terminals has been highlighted in Haringey’s response to the Select Committee, and we are currently awaiting the outcome of the findings of that committee. To date the Government has increased the amount of similar machines adult gaming centres and bingo premises can have on site available for use, this may be an indication that they are intending to do the same with Fixed Odds Betting Terminals in betting shops.
- 13.14 A further part of recommendation 5 was the possibility of commissioning independent research into the association of Fixed Odds Betting Terminals with crime and disorder and the role of these on those with gambling problems. This has been investigated however the costs have proved to be prohibitive. Further discussions will continue with the police service to jointly address this issue.
- 13.15 Recommendation 6 highlighted the need for improved liaison between operators and Safer Neighbourhood Teams and borough intelligence to help reduce low level crime and ASB. The police have confirmed that work has commenced in this area with consistent standards for reporting being reinforced to officers. Area managers for the betting shops are beginning to work with the police and a forum is being considered. The Police Crime Prevention Design Advisors are looking at the layout of existing betting shops and advising where appropriate. The police call control systems are being reviewed to understand how calls relating to alcohol, ASB and disorder associated with betting shops can be better captured by their data management systems.
- 13.16 Recommendation 7 proposed that the Council should undertake further work to investigate whether the clustering of betting shops has precipitated an increase in rental values. It is proposed to explore the various options that



**Haringey** Council

can be utilised to determine whether the clustering of betting shops has precipitated an increase in rental values.

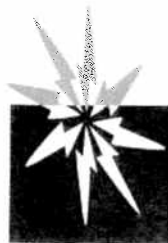
- 13.17 Recommendation 8 stated that the Council should consider if there is a role for Area Committees in monitoring the clustering of retail uses and the possible impact this may have on communities. It is proposed explore the possibility and pilot the role of Area Committees to monitor the impact of clustering in selected wards in early 2012.



**Appendix 1. Response to Overview & Scrutiny Recommendations for Clustering of Betting shops**

Recommendations	Service Response
<p>1. The clustering of any retail, business or service use (including betting shops) may limit the retail appeal and affect the vitality and viability of shopping areas in which these clusters occur. The panel recommended that the concept of 'clustering' should be clearly defined and appropriately reflected in relevant planning policy documents. The panel also recommended that the planning service should consider the development of a 'clustering' policy'.</p>	<p>Agreed</p> <ul style="list-style-type: none"> <li>The Planning Service is reviewing the impact of betting shops and clusters in Town Centres and will report back on possible policy options for control - this will be reported to Cabinet in December 2011.</li> </ul>





Recommendations	Service Response
<p>2. The panel recommend that the Licensing Team establish a Responsible Gambling Premises Scheme, similar to the Responsible Licensee Scheme already in operation in Haringey. Local gambling operators should be encouraged to sign up to this voluntary agreement which sets clear standards and procedures that:</p> <ul style="list-style-type: none"> <li>▪ ensure that clean and presentable shop frontages are maintained</li> <li>▪ discourage customers from gathering outside betting shop premises</li> <li>▪ reports crime and anti-social behaviour both on and outside betting shop premises to appropriate authorities</li> <li>▪ ensure details of where people with gambling problems can obtain help and advice are prominently displayed</li> <li>▪ signage regarding ASB, criminal damage and underage usage of Fixed Odds Betting Terminals is prominently displayed</li> <li>▪ ID checks are systematically employed to prevent underage gambling.</li> </ul>	<p>Agreed</p> <ul style="list-style-type: none"> <li>• The Licensing Team has commenced work with betting operators to establish such a scheme. Discussions regarding joint working with the police in a Responsible Gambling Premises Scheme have also commenced. It is proposed that the Responsible Gambling Premises Scheme is in operation by February 2012.</li> </ul>



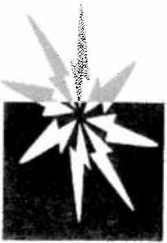
Recommendations	Service Response
<p>3. In order to inform the effectiveness and viability of local approaches to controlling the use of the clustering of betting shops, the panel recommend that the Council should develop a full appraisal of the costs and benefits of adopting an Article 4 Direction.</p>	<p>Agreed</p> <ul style="list-style-type: none"> <li>• The Cabinet member for the environment will hold a wider stake holder debate on this matter in early 2012.</li> </ul>
<p>4. The panel recommend that the Council should continue to lobby central government for amendments to the Gambling Act (2005). In doing this, it should also seek to develop alliances with other local authorities in which the clustering of betting shops is known to be of local concern. Explicitly, the Council should lobby central government to:</p> <ul style="list-style-type: none"> <li>▪ reintroduce a local 'demand test' for gambling premises licenses, where the local authority may assess the need for such use in a local area</li> <li>▪ remove betting shops from A2 Use Class and be considered 'sui generis' and defined in their own Use Class</li> <li>▪ ensure that local concerns and interests are fully represented and considered and prioritised in the decision to license gambling premises</li> </ul> <p>ensure that crime and ASB are defined and recognised within the Gambling Act licensing procedures.</p>	<p>Agreed</p> <p>The Cabinet Member for Environment has lobbied Government and the Local Government Association for change to the Act and guidance extensively and will continue to do so.</p>



Recommendations	Service Response
<p>5. The panel recommend that the Council should write to the Department of Culture, Media and Sport and the Gambling Commission about the concerns associated with the Fixed Odds Betting Terminals (FOBTs). In particular the panel recommended that the Council should:</p> <ul style="list-style-type: none"> <li>a) argue for a change in the licensing conditions of FOBTs so that: <ul style="list-style-type: none"> <li>▪ licenses for FOBTs are considered separately from those of premises licenses and not allowed as part of the wider license</li> <li>▪ the retention rates of FOBTs are prominently displayed on each machine</li> </ul> </li> <li>b) suggest that independent research is commissioned to investigate: <ul style="list-style-type: none"> <li>▪ the association of FOBTs with crime and disorder</li> <li>▪ the role of FOBTs on those with problem gambling</li> </ul> </li> </ul> <p>the contribution of FOBTs to the profitability of betting shops, and the propensity of betting shops to cluster.</p>	<p>Partly Agreed</p> <ul style="list-style-type: none"> <li>a) Letter is being prepared by the Cabinet Member for Environment <ul style="list-style-type: none"> <li>• The Cabinet Member for the Environment has also sent a response to the Select Committee Enquiry into Gambling raising these issues.</li> </ul> </li> <li>b) The possibility of commissioning independent research into the association of FOBTs with crime and disorder is being investigated. At this initial stage the costs appear to be prohibitive, however discussions will continue with the police to try to jointly address this issue pending appropriate resources are available.</li> </ul>



Recommendations	Service Response
<p>6. The panel recommend that there should be improved liaison between betting operators and Safer Neighbourhood Teams and borough intelligence in helping to reduce low level crime and ASB in relation to the local betting shop estate. This should include:</p> <ul style="list-style-type: none"> <li>▪ consistent standards and process for reporting crime and ASB across all operators</li> <li>▪ improved consultation in relation to prospective location of betting shops</li> </ul> <p>improved consultation to ensure that betting shops are planned and designed to improve security and prevent crime and ASB (i.e. shop lay out, location of CCTV, location of FOBTs and positioning of cash desks).</p>	<p>Agreed by MPS Haringey</p> <ul style="list-style-type: none"> <li>• Work has already started in this area. There are consistent standards for reporting crime and ASB which are being reinforced across the operators by SN Sergeants and Problem Solving practices.</li> <li>• Area managers for the betting shops are beginning to work with police and a forum is being considered moving forward.</li> <li>• The Police Crime Prevention Design Advisors are looking at betting shop layout and advising where appropriate.</li> <li>• The police call control systems are being reviewed to understand how calls relating to alcohol, ASB and disorder can be better captured by data management systems post event.</li> </ul>
<p>7. The panel recommend that the Council should undertake further work to investigate whether the clustering of betting shops has precipitated an increase in rental values in the areas in which these have occurred.</p>	<p>Agreed</p> <ul style="list-style-type: none"> <li>• It is proposed to explore various options that can be utilised to determine whether the clustering of betting shops has precipitated an increase in rental values.</li> </ul>
<p>8. The panel recommend that the Council should consider if there is a role for Area Committees in monitoring the clustering of retail uses and the impact that this may have on the communities for which they are responsible.</p>	<p>Agreed</p> <ul style="list-style-type: none"> <li>• It is proposed to explore and pilot the role of Area Committees to monitor the impact of clustering in selected wards in early 2012.</li> </ul>



Recommendations	Service Response
<p>9. Given the associated risk factors and co-behaviours associated with problem gambling (smoking, alcohol usage), a copy of the report is made available to Public Health Directorate for dissemination among local health and associated professionals to improve awareness and possible treatment options.</p>	<p>Agreed Completed</p>

