

Gambling Act 2005 Licensing Sub-Committee 17th December 2007

Report title: Application for a Premises Adult Gaming Centre Licence for Frankice (Golders Green) , 48 Grand Parade , Green Lanes N4

Report of: The Lead Officer - Licensing

Ward(s)

ST. ANNS

1. Purpose

To consider an application by **Frankice (Golders Green)** to provide the provision of Adult gaming facilities and that the holder of such a license must hold a gaming machine general operating license from the Commission. If granted this would enable the centre to make available for use up to four category B machines: any number of category C machines and any number of category D machines. Regulations state that category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines

This application must be considered under the three licensing objectives:

- 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; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

2. Principles to be applied

2.1 In exercising their functions under this part a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it-

- (a) In accordance with the any relevant code of practice under section 24
- (b) In accordance with any relevant guidance issued by the Commission under section 25
- (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 section 349 (subject to paragraphs (a) to (c))

2.2 In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

2.3 Recommendations

On considering an application for a premises licence (whether at a hearing or not) a licensing authority shall

- (a) Grant it or
- (b) Reject it.

A Licensing Authority shall not determine an application for a premises licence made in reliance on section 159(3)(b) until the relevant operating licence has been issued in a form which authorises the applicant to carry on the activity in respect of which the premises licence is sought.

Report authorised by: Robin Payne.....  Assistant Director Enforcement Services

Contact Officer: Ms Daliah Barrett Telephone: 020 8489 8232

3. Executive summary
For consideration by Sub Committee under the Gambling Act 2005 for a Betting Premises Licence.

4. Access to information:

Local Government (Access to Information) Act 1985
Background Papers

The following Background Papers are used in the preparation of this Report:
File: Frankice 48 Grand Parade, Green Lanes N4
The Background Papers are located at Enforcement Service, Civic Centre, High Road Wood Green N22

5. REPORT

Background

- 5.1** Application by **Frankice (Golders Green)** for an Adult Gaming Centre Premises Licence in respect of **48 Grand Parade , Green Lanes N4** under the Gambling Act 2005. The application has followed the prescribed format and all consultations have been undertaken. **App 1**. The applicant has an operating licence granted by the Gambling Commission
- 5.2** Members are reminded of the three licensing objectives under the Gambling Act 2005 which are:
- (a) Preventing gambling from becoming a source of crime or disorder, being associated with crime or disorder, or being used to support crime
 - (b) Ensuring that gambling is conducted in a fair and open way; and
 - (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 5.3** When determining an application the Licensing Authority “shall aim to permit the use of premises for gambling in so far as Members think it”:
- In accordance with the relevant Codes of Practice (under s.24);
 - In accordance with Guidance by the Gambling Commission (under s .25);
 - Reasonably consistent with the three Gambling Licensing Objectives; and
 - In accordance with the Haringey Council Statement of Gambling Policy.
- 5.4** The Gambling Commission’s Guidance (paragraph 5.27) tells Local Licensing Authorities that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because they do not relate to the Gambling Licensing Objectives. Except where a Council resolves not to allow casinos in its area, a decision on an application cannot be based on dislike of gambling or on a general notion that it is undesirable to allow gambling premises in an area. If an application is rejected, the Licensing Authority should rely on reasons that demonstrate that the Gambling Licensing Objectives are not being met, or are unlikely to be met.
- 5.5** The Guidance on the first gambling licensing objective (preventing gambling being a source of crime or disorder) states that “The Commission will play a leading role in preventing gambling from being a source of crime. It will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling...The Act provides the Commission with powers to investigate the suitability of applicants for operating and personal licences..... As applicants for premises licences...will have to hold an operating licence from the Commission before the premises licence can be issued, licensing authorities will not need to investigate the suitability of an applicant.....Licensing authorities will need to consider the location of the premises in the context of this licensing objective. If an application for a licence or permit is received in relation to premises that are in an area noted

for particular problems with organised crime, for example, licensing authorities should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors.”

- 5.6** On disorder the Commission’s Guidance continues “In relation to preventing disorder, the licensing authority does have the ability under section 169 of the Act to impose licence conditions. These could include a requirement for door supervision as provided for in section 178...Local authorities should note that in the case of gambling premises licenses, disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor. It should be noted that unlike the Licensing Act [2003] the Gambling Act [2005] does not include, as a specific licensing objective, the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant laws.”
- 5.7** The Guidance on the second gambling licensing objective (ensuring that gambling is conducted in a fair and open way) states that “Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. For example, the Commission will require through operating licences that there is sufficient space around tables and machines to prevent the jostling of players.”
- 5.8** The Guidance on the third gambling licensing objective (protecting children and vulnerable persons from harm) states that “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. The objective talks of protecting children from being “harmed or exploited by gambling”. That means preventing them from taking part in 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. Licensing authorities will need to consider whether specific measures will be needed to protect children on particular categories of premises. This may include requirements such as supervision of entrances...”

No one under the age of 18 is permitted to enter an Adult Gaming Centre, Licensing Authorities will wish to have particular regards to the location of and entry to Adult Gaming Centres to minimise the opportunities for children to gain access. This may be of particular importance in such areas where young people may be unsupervised and the AGC is in a complex such as a shopping centre or airport.

- 5.9** On vulnerable persons, the Guidance continues “The Act does not seek to prohibit particular groups of adults from gambling in the way that it prohibits children. The Commission will not seek to define “vulnerable persons”, but it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental impairment, alcohol or drugs. Licensing authorities will need to consider 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 permit the use of premises for gambling.”
- 5.10** The Haringey Council Statement of Gambling Policy (SGP) on page 5 under “General Principles” provides that “when determining an application to grant a premises licence...regard will be had to the proximity of the premises to schools, vulnerable adult centres or residential centres where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.”
- 5.11** On page 12 under the heading “Location” the SGP states “This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission’s Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.”
- 5.12** On page 13 the SPG continues “In considering licence applications the Council may take into account the following:-
- (1) The design and layout of the premises;
 - (2) The training given to staff in crime prevention measures appropriate to those premises;

- (3) Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
- (4) Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
- (5) The likelihood of any violence, public order or policing problem if the licence is granted.

5.13 The Committee are asked to consider the application in light of the representation received from residents. Members are guided to part 2 above 'Principles to be applied' and copies of the relevant codes of practice are attached with this report. (**App 2- Codes of Practice**)

5.14 There are also two statutory disregards. (i) It is expressly provided (s.153(2)) that in determining whether to grant a premises license, a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide. (ii) The licensing authority shall not have regard to whether the proposal is likely to receive planning or building regulations approval (s.210).

6. RELEVANT REPRESENTATIONS (CONSULTATION)

Responsible Authorities:

6.1 The Licensing Authority

No comments received in relation to this application.

6.2 The Gambling Commission

A confirmation of receipt of the application has been given by the Commission

6.3 London Fire and Civil Defence Authority

No comments received in relation to this application

6.4 Metropolitan Police

No comments received in relation to this application

6.5 The Planning Department

No comments received in relation to this application

6.6 Environmental Health - Health and Safety/Noise Team/Pollution

No comments received in relation to this application

6.7 Trading Standards

Have no objections to this application

6.8 Safeguarding children nominee

No comments in relation to this matter.

6.9 Her Majesty's Commissioners of Custom and Excise

Have received notification of the application

6.10 Interested Parties - App 3

For the purposes of this part a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the license or to who the application is made, the person: -

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- (b) Has business interests that might be affected by the authorised activities, or
- (c) Represents persons who satisfy paragraph (a) or (b)

The representations from the residents point to their concerns for the large number of children frequent the nearby schools and the nearby mental health facilities at St Anns Hospital which is allows for a higher percentage of vulnerable adults to pass through this part of the borough. They also point to the above average numbers of vulnerable adults on very low fixed incomes who they say can ill afford to lose any money at a gaming centre.

7.0 Financial Comments

The fee which would be applicable for this application is **£3000.00**

8.0 Head of Legal Service Comments

The principles to be applied by the Licensing Sub-Committee in reaching a decision on this application are set out in paragraph 5.3 which quotes section 153 of the Gambling Act 2005. Members must have regard to the Gambling Commission's Guidance and the Council's own Statement of Gambling Policy. Relevant extracts have been included in this report above. The decision must be based on the three gambling licensing objectives at paragraph 5.2. Other political or moral factors are not relevant. Members should also bear in mind, generally, that the imposition of conditions may be able to meet objections to the grant of a premises licence depending on the facts of the specific case.

9.0 Licensing Officer Comments on Conditions

There are three types of conditions which may be attached to a Premises Licence.

- Mandatory (S167)
- Default (S168) – there are no specific default conditions for AGC's , these type of premises do not have set opening hours. It is for the Licensing Authority to decide on this matter on a case by case basis.
- Discretionary, set by the Licensing Authority (S169)

Mandatory and default conditions are prescribed in the Gambling Act 2005 and the "Conditions Regulations" (S.I. 2007/1409) for all premises and each premises type.

9.1 Matters not to be dealt with or restricted by conditions

Conditions attached by the Licensing Authority may not:

- Conflict with Gambling Commission requirements (S169)
- Require membership of a club or other body (S170)
- Limit stakes or prizes (S171)
- Restrict gaming machines categories, numbers or method of operation (S172)

The holder of a adult gaming centre premises licence is authorised under s172 of the Act to make available for use up to four category B machines: any number of category C machines and any number of category D machines. The Categories of Gaming Machines Regulations state at s6(3)(a) that category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines

9.2 Mandatory Conditions for all premises licences under the Conditions Regulations

The Conditions Regulations stipulate the mandatory and default conditions. They state that every Premises Licence will have the following conditions:

(1) The conditions specified in paragraphs (2), (3) and (4) shall be attached to every premises licence.

(2) The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.

(3) The layout of the premises shall be maintained in accordance with the plan.

(4) The premises shall not be used for—

- (a) the sale of tickets in a private lottery or customer lottery, or
- (b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited^(a).

9.3 Mandatory Conditions for all premises licences under the Act

Section 183 Christmas Day

A premises licence shall, by virtue of this section, be subject to the condition that the premises shall not be used to provide facilities for gambling on Christmas Day.

Section 184 Annual Fee

- (1) The holder of a premises licence-
 - a. Shall pay a first annual fee to the licensing authority within such period after the issue of the licence as may be prescribed, and
 - b. Shall pay an annual fee to the licensing authority before each anniversary of the issue of the licence.

Section 185 Availability of licence

- (1) The holder of a premises licence shall-
 - a. Keep the licence on the premises, and
 - b. Arrange for the licence to be made available on request to-
 - i. A constable
 - ii. An enforcement officer, or
 - iii. An authorised local authority officer

9.4 Mandatory conditions attaching to adult gaming centre premises licences under the Conditions Regulations

- 1. A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.
- 2. No customer shall be able to access the premises directly from any other premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect.
- 3. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
- 4. (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.

^(a) See the National Lottery Regulations 1994 (S.I. 1994/189) which prohibits the sale of National Lottery tickets in specified premises licensed for gambling activities.

(2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.

9.5 Default Conditions

Section 169 of the Act gives licensing authorities:

- The ability to exclude from premises licenses any default conditions that have been imposed under the Conditions Regulations; and
- The power to impose extra conditions on the premises licenses that they issue. These may deal with matters that could have been covered by an excluded default condition.

There is no Default Condition under the Conditions Regulations that relate to Adult Gaming Centres.

9.7 Discretionary Conditions

In addition there are discretionary powers under section 169 of the 2005 Act to impose extra conditions as described below.

These may be specific statutory conditions in relation to door supervision or betting machines. These are discretionary conditions and a requirement for door supervisors or conditions on betting machines should only be imposed where Members consider it relevant and in accordance with the Guidance

In addition the Licensing Authority can impose extra conditions about other matters. This can include matters that could have been covered by an excluded default condition.

The Gambling Commission Guidance takes the view that the conditions necessary for the general good conduct of gambling premises will be those set as default and mandatory conditions by the Secretary of State. Therefore a pool of additional conditions published by the Commission is not necessary. Where there are specific risks or problems associated with a particular locality or specific premises or class of premises the local licensing authority will be able to attach individual conditions to address this. Conditions imposed by the local licensing authority must be proportionate to the circumstances. Conditions must 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
- Fairly and reasonably related to the scale and type of premises, and
- Reasonable in all other respect

Section 178 Door Supervision – this is a discretionary condition

- (1) Where a condition for door supervision is attached to a premises licence (whether by virtue of section 167, 168 or 169) subsection (3) shall apply in relation to the licence.
- (2) In subsection (1) “condition for door supervision” means a condition requiring that one or more persons be responsible for guarding the premises against unauthorised access or occupation, against outbreaks or disorder or against damage.
- (3) If the person carrying out the guarding mentioned in subsection (2) is required by the Private Security Industry Act 2001 (c. 12) to hold a licence under that Act authorising the guarding, the requirements under that Act shall be treated for the purpose of this Act as if it were a condition of the premises licence attached by virtue of this section.

Note – The Licensing Authority will have a discretion to decide whether door supervisors must be licensed by the Security Industry Authority (SIA).



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Town and Country Planning Act 1990 (As amended)

Plan relating to the Enforcement Notice dated

48 Grand Parade, Green Lanes N4



Robin Payne
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 Enforcement Service
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	Drawn by	Haringey Council
	Scale	1:1000
	Date	29/11/2007
	Drawing	NVA