

NORTHAMPTON BOROUGH COUNCIL

Alcohol & Gambling Licensing Committee

Your attendance is requested at a meeting to be held at The Jeffrey Room, The Guildhall, St. Giles Square, Northampton, NN1 1DE on Tuesday, 16 October 2018 at 6:00 pm.

**George Candler
Chief Executive**

AGENDA

1. Apologies
2. Minutes
3. Deputations/Public Addresses
4. Declarations of Interest
5. Matters of Urgency which by reason of special circumstances the Chair is of the opinion should be considered
6. Delegation of functions of Alcohol and Gambling Licensing Committee
7. Licensing Act 2003 (Hearings) Regulations 2005

To consider whether the Committee should exclude the public from all or part of the hearing during consideration of any item listed above if the Panel believe that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public, in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

Public Participation

Members of the public may address the Committee on any non-procedural matter listed on this agenda. Addresses shall not last longer than three minutes. Committee members may then ask questions of the speaker. No prior notice is required prior to the commencement of the meeting of a request to address the Committee.

NORTHAMPTON BOROUGH COUNCIL

LICENSING COMMITTEE

Monday, 23 July 2018

PRESENT: Councillor Flavell (Chair); Councillors Graystone, Haque, Duffy, Beardsworth and Larratt

OFFICERS: Ruth Austen (Environmental Health & Licensing Manager)
Clive Tobin (Senior Litigation & Licensing Solicitor)
Ed Bostock (Democratic Services Officer)

FOR THE APPLICANT: Patrick Robson (Licensing Consultant)
Mr Hurrydwar Sookun (Director of applicant company)

1. APOLOGIES

Apologies for absence were received from Councillors Sargeant, Walker and Culbard.

2. MINUTES

The minutes of the meeting held on 19th June 2018 were agreed and signed by the Chair.

3. DEPUTATIONS / PUBLIC ADDRESSES

There were none.

4. DECLARATIONS OF INTEREST

There were none.

5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

7. GAMBLING ACT 2005 - APPLICATION FOR AN LPGM PERMIT

The Environmental Health & Licensing Manager submitted a report and elaborated thereon. She explained that since the premises did not have an existing notification or gaming machine permit in accordance with S34 of the Gaming Act 1968 or the Gambling Act 2005, the application should be treated as a new application for an LPGM Permit for 11 category C, and 4 category D machines. Members noted that should an LPGM Permit be granted, the Committee would be unable to attach any conditions to it, however they could vary the category and/or number of machines, and that the permit would last indefinitely, unless subject to earlier termination.

Patrick Robson, representing the applicant, reported that as a licensed premises, the hotel had a clean record with regards to regulatory issues. He stated that the games room would not be a destination for gamblers, but extra amenity for hotel guests, and that the games room would not be advertised externally.

At this point Mr Robson circulated photographs of signage throughout the hotel's ground floor stating that the games room was a restricted area and off limits to under 18s, and highlighted that only one door would allow access and egress; the rest would remain locked, apart from a fire exit which would be alarmed. It was also noted that the entrance to the games room would have a coded lock. Mr Robson further explained that the games room would be operational only during times that licensable activities took place and that during

those times, a member of staff would always be present. An attendance register, and a refusal register, would be kept by staff who would be practicing the "Challenge 25" policy.

Regarding security, Mr Robson confirmed that there were presently 60 CCTV cameras throughout the hotel with 4 located within the games room, with plans to add another 11; a live feed of the cameras in the games room would be available to view by staff at reception.

It was explained that there were no ATMs on the premises and signage was located throughout the games room asking customers to play responsibly and there would be "GamCare" leaflets available for customers also.

Mr Robson commented that the Licensing Committee would not be departing from any existing Council policy if the application was granted.

In response to questions, the Committee were informed that customers would not be able to receive cash back from any card purchases at the hotel.

It was explained that the size of the room was sufficient enough to warrant the quantity of machines requested.

The solicitor explained to Members their choices when deliberating and reiterated the point that they could not impose conditions, but could modify the category and quantity of machines, and advised that there were powers in place to review the licence, should the need arise.

Members retired at 18:51 to make a decision.

The meeting reconvened at 19:27.

RESOLVED:

The Committee heard the Report of the Licensing Team Leader, presented by Ruth Austen, Environmental Health and Licensing Manager.

The Director of the applicant company was present and the company were represented by Mr. Patrick Robson, Solicitor of John Gaunt & Partners Solicitors.

The Committee heard that the premises were a hotel which currently had 69 bedrooms and that sign off for planning purposes was due shortly in relation to an extension which would increase the number of bedrooms to 93. The main building had 4 floors and the annex had 3 floors. The premises open throughout the day for meals and drinks and also hold a licence for civil marriage ceremonies.

The Committee heard that an application had initially been made to convert a gaming machine permit issued under the Gambling Act 1968 however, since that permit was not in force, the application had to be treated as an application under section 283 of the Gambling Act 2005 ('the Act').

The Committee also heard that the application was for a total of 15 machines, 11 of which were of Category C and 4 of which were of Category D. Category C machines have a maximum prize level of £100.00 and a maximum stake of £1.00. There are various sub-categories of Category D machines which have a prize range from £5.00 to £50.00 and a stake ranging from 10 pence to £1.00.

The Committee heard that the machines would be placed in a previously unused part of the

hotel which comprised two rooms. One room would contain the Category D machines along with pool tables air hockey tables and football tables, and the Category C machines would be placed in the adjacent room.

On behalf of the applicant it was explained that, if the Permit were granted, the following measures would be in place to regulate the use of the gaming machines:

- a) The machines would to be sited in a separate gaming area of the hotel and that, in order to obtain access, customers would have to pass by the main reception of the premises.
- b) A coded lock was to be placed on the door to the gaming area, the code for which would only be known by staff and that, when gaming was not allowed on the machines, the door would be locked meaning that customers could not sneak in and use them without supervision.
- c) A member of staff would be on duty at a desk just inside the gaming area and would control entry to that area by means of the following:
 - i. No person under the age of 18 would be allowed to enter the area, enforced by a challenge 25 scheme, refresher training being given every 3 months;
 - ii. Signs would be displayed stating that no person under the age of 18 was allowed to enter;
 - iii. An attendance register would be maintained; and,
 - iv. A log would be kept of refusals to enter the area.Photographs showing the signage and samples of the register and log were provided.
- d) Additional staff would also be coming and going from the area to bring food and drink to customers, providing additional supervision and, depending upon how things developed, a permanent host may be employed for the gaming area. The duty manager also circulates the hotel and so would be walking through the area regularly.
- e) CCTV was in operation, currently and:
 - i. a total of 60 cameras in the hotel, including 4 in the gaming area;
 - ii. 20 more cameras were due to be installed, including 11 more in the gaming area;
 - iii. all footage is retained for 90 days;
 - iv. a facility for a live feed to reception is in place to provide additional monitoring; and,
 - v. a facial recognition camera was to be installed in the reception area.
- f) Leaflets from Gamcare, a charity which helps problem gamblers, were to be available to customers, stickers on machines would give Gamcare's details, signs would encourage sensible gambling, staff would monitor the time spent by customers and look for trends which suggested problem gambling, and a self-exclusion procedure would be in place (samples of the form were circulated to members).

Mr. Robson also stated that:

- g) the Code of Practice required supervision of gaming machines by staff or other means, this applicant would do both; and,
- h) the premises had never had any regulatory problems and had never failed a test purchase.

The Committee received advice on the following:

- i. the options available to the Committee, namely to grant the application,

- refuse the application, or grant the application for a smaller number or a different category of machines (or both);
- ii. conditions can not be added to a Permit;
- iii. the Code of Practice issued under the Act automatically applies to any permit granted;
- iv. paragraphs 26.1 to 26.44 of the statutory guidance to which the Committee must have regard;
- v. that a Permit lasts indefinitely once granted however, it ceases to have effect if the premises licence ceases to be held for the premises or if surrendered by the holder;
- vi. the licensing authority may also cancel a permit if it is no longer consistent with the licensing objectives or if offences under the Act are committed;
- vii. details of the Categories of machine are set out in the report;
- viii. although the Act does not expressly say that the licensing authority should aim to grant the licence, the Committee would need good reasons to refuse it; and,
- ix. commercial viability of the proposed operation is not a consideration for the Committee.

Resolved:

The Committee resolved that it would:

- 1) Grant the application in respect of:
 - a. a smaller number of gaming machines than that specified in the application; and,
 - b. a different category of machines from that specified in the application.
- 2) The reasons for the decision are:
 - a. allowing the proposal would mean that gambling was no longer ancillary to the main purpose of the premises, but would become a significant part of the business which would contravene paragraph 26.1 of the Statutory Guidance to which the committee must have regard;
 - b. allowing the proposal would attract a different type and source of business to the premises;
 - c. since non-residents would be allowed into the premises to use the gaming machines this would change the nature of the business and the provision would not be solely for the entertainment of residents;
 - d. allowing such a high number of machines and, significantly, that number of category C machines would:
 - i. be likely to attract a greater number of non-residents due to the level of available prizes; and,
 - ii. as a result, be more likely to place vulnerable persons at risk of being harmed or exploited by gambling.

The meeting concluded at 7:30 pm

Appendices: 0



NORTHAMPTON
BOROUGH COUNCIL

ALCOHOL & GAMBLING LICENSING COMMITTEE **16th October 2018**

Agenda Status: Public

Directorate: Borough Secretary's

Report Title	Delegation of functions of Alcohol and Gambling Licensing Committee
---------------------	--

1. Purpose

- 1.1 To establish sub-committees of the Alcohol and Gambling Licensing Committee, approve the delegation of appropriate functions to those sub-committees and to officers, in order to ensure efficient determination of applications made under the legislation concerned, ensuring that this meets the requirements of that legislation.

2. Recommendations

- 2.1 That Committee establish a number of Sub-committees to discharge the Committee's functions under the 2003 Act.
- 2.2. That Committee delegates the discharge of the functions set out in Appendix B to those Sub-committees and Officers.
- 2.3 That Committee confirms that all other functions are to be discharged by the Committee.

3. Issues and Choices

3.1 Report Background

- 3.1.1 In September 2018 Full Council appointed a new Tax and General Licensing Committee in order to ensure that lawful arrangements existed to allow the determination of applications under new legislation relating to animal welfare (which comes into force this month) and also to ensure that the Council's delegation of other licensing functions were up to date, taking account of certain statutory limitations in relation to such delegations.

- 3.1.2 At that time Full Council also delegated certain functions to both the Alcohol & Gambling Licensing Committee and the newly appointed Taxi and General Licensing Committee and allowed each committee to further delegate the exercise of those functions to sub-committees and officers as they consider appropriate. Those functions are set out in the tables in **Appendix A – Functions delegated to Alcohol and Gambling Licensing Committee and the Taxi and General Licensing Committee.**
- 3.1.3 The functions set out in Table 1 of Appendix A are those which, as a matter of law, are automatically delegated to the committee established under the Licensing Act 2003 ('the 2003 Act'). Accordingly, those functions were delegated to the Alcohol & Gambling Licensing Committee. Table 2 sets out several exceptions which, as a matter of law, may not be delegated to that committee and accordingly, they were reserved to Full Council. This broadly follows the previous delegations in Part 3 of the Council's Constitution.
- 3.1.3 The 2003 Act allows the Council's Licensing Committee to delegate certain functions to sub-committees and officers, subject to certain limitations contained in the Act in relation to officers. Since the 2003 Act came into force the Council has followed this approach, delegating the processing of unopposed applications for licences to officers since the 2003 Act does not allow such applications to be refused, and delegating determination of contested applications to sub-committees established under the 2003 Act. Sub-committees also consider reviews of premises licences and club premises certificates.
- 3.1.4 The 2003 Act specifically provides that the Committee may establish one or more sub-committees of 3 members. Since decisions under the 2003 Act have to be made within strict timescales set out in regulations, often at short notice, it is suggested that the Committee establishes every sub-committee combination committees possible so that all members are appointed to every combination of sub-committee. Since this equates to hundreds of different combinations and would take considerable time and space to set out in fine detail, it is recommended that Committee simply resolve that all such sub-committees are established and every member appointed to them.
- 3.1.5 It is now recommended that the process of delegation to sub-committees and officers is continued to allow effective discharge of the functions concerned allowing officers to deal with matters of an administrative nature and only placing matters which are contested before members to determine at sub-committee hearings. It is further proposed that the Alcohol & Gambling Licensing Committee sits as a whole in relation to matters such as development of policy for approval by Full Council. Appendix B contains a list of the proposed delegations to sub-committees and officers.

3.2 Alternative options

- 3.2.1 If Committee is not minded to delegate matters as specified in Appendix B then the Committee could choose to delegate some of those functions and reserve the remainder to itself. Committee must however have regard to the limitations in the 2003 Act in relation to which matters may not be delegated to officers. In order to assist members to understand the limitations in the 2003

Act and the 2005 Act, the table in Appendix B has been annotated to show those functions may not be delegated to officers.

3.1 Decision details

3.2.1 It is proposed that the Committee establishes sub-committees under the 2003 Act to discharge functions under the Act.

3.2.2 It is proposed that the Committee delegates functions under the 2003 Act and the Gambling Act 2005 to those sub-committee and officers in accordance with Appendix B.

3.2.3 Committee confirms that all other functions are to be exercised by the Committee itself.

4. Implications (including financial implications)

4.1 Policy

4.1.1 The proposals do not impact on any of the Council's existing policies since any applications determined by Committee of Sub-committees must consider the Council's existing statements of licensing policy and gambling licensing policy.

4.2 Resources and Risk

4.2.1 There is unlikely to be any change in the number of committee meetings which take place as a result of the proposals.

4.3 Legal

4.3.1 The 2003 Act requires the Council to establish a licensing committee consisting of ten to fifteen members of the authority and automatically delegates most functions under the Act to that committee. Several are reserved to Full Council.

4.3.2 The 2005 Act states that the Council's functions in relation to gambling under the 2005 Act are also delegated to the licensing committee established under the 2003 Act.

4.3.3 The 2003 Act allows appointment of sub-committees and delegation of certain functions to those sub-committees or officers. As a general principle, officers may only deal with uncontentious matters, e.g. were the Council is obliged to grant a licence because there have not been any representations made which object to the proposal. The 2003 Act does not allow officers to deal with matters which are in dispute, e.g. where a representation is made objecting to a licence being granted. Similar restrictions are contained in the 2005 Act in relation to gambling premises licences and permits.

4.3.4 The proposals in Appendix B comply with the restrictions in both Acts and replicate the existing arrangements operated by the Council.

4.4 Equality

4.4.1 No implications since this report addresses only the mechanism of making decisions and every decision made under the 2003 and 2005 must comply with the Council's policies, the criteria in those Acts and the Equalities Act 2010.

4.4.1 Other Implications

4.5.1 None

5. Background Papers

5.1 None

Appendices

A Functions delegated to Alcohol and Gambling Licensing Committee and the Taxi and General Licensing Committee

B List of proposed delegations to sub-committees and officers

**Clive Tobin, Licensing & Litigation Solicitor
Borough Secretary's
0300 330 7000**

Functions delegated to Alcohol and Gambling Licensing Committee and the Tax and General Licensing Committee

Table 1

Functions delegated to Alcohol and Gambling Licensing Committee

Function	Statutory Provision
All licensing functions of the Council relating to the Sale / Supply of Alcohol and Provision of Entertainment and Late Night Refreshment	Section 7 Licensing Act 2003* (except for such functions as cannot be delegated).
Gambling Issue of premises licences	Section 154 Gambling Act 2005*
Determination of applications in relation to temporary use of premises for gambling	Section 232 Gambling Act 2005*
Determination of applications for gaming machine permits	Part 10 Gambling Act 2005
Determination of applications for gaming permits in relation to pubs and clubs	Part 12 Gambling Act 2005

* these functions are automatically delegated to the committee under the provisions referred to and the Council may not make provision for their exercise in any other manner.

Table 2

Functions not delegated to Alcohol and Gambling Licensing Committee and Reserved to Full Council

Function	Statutory Provision
Alcohol Determination of 5 year Licensing Policy	Section 5 Licensing Act 2003
Making, varying or revoking of Early Morning Alcohol Restriction Order	Section 172A Licensing Act 2003
Gambling Setting of fees in relation to applications for premises licences etc.	Section 212 Gambling Act 2005
Determination of 3 year Licensing Policy	Section 349 Gambling Act 2005

Table 3

Functions delegated to Taxi and General Licensing Committee

<p>Taxis Determination of applications for hackney carriage drivers and vehicle licences, reviews, suspension and revocation of such licences and setting policy in relation to licensed vehicles and drivers</p> <p>Determination of applications for private hire vehicle, operator and drivers licences, reviews, suspension and revocation of such licences and setting policy in relation to licensed vehicles and drivers</p> <p>All non-executive functions in relation to such licences</p>	<p>Town Police Clauses Act 1847</p> <p>Local Government (Miscellaneous Provisions) Act 1976</p> <p>Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended)</p>
<p>Sex establishments Determination of applications for licences for sex establishments, review and revocation of such licences and setting of policy in relation to such licences.</p> <p>All non-executive functions in relation to such licences.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982</p> <p>Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended)</p>
<p>Street Trading Determining applications for street trading consent, renewal of street trading consents and revocation of street trading consents and setting policy in relation to such consents.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982</p>
<p>House to House and Street Collections Determination of applications for street collection permits and house to house collection licences, review and revocation of licences and setting of policy and making of regulations in relation to such licences and permits.</p>	<p>House to House Collections Act 1939 Police, Factories etc. (Miscellaneous Provisions) Act 1916</p>
<p>Car Boot Sales Determination of applications for registration of car boot sales and grant of permits</p>	<p>Market Franchise and NBC Conditions</p>

<p>Tattooing etc. Determination of applications for registration of persons to carry on a business of skin piercing, tattooing, semi-permanent skin colouring, acupuncture and/or electrolysis, review, suspension and cancellation of such registrations and making of bye-laws in relation to such activities.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982 (as amended)</p>
<p>Animal Welfare Determination of applications for licences for operation of businesses of pet animal sales, pet boarding, hiring out horses, dog breeding and/or keeping or training of animals for exhibition, review, suspension, variation revocation and reinstatement of such licences and appointment of inspectors.</p>	<p>Animal Welfare Act 2006 and Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018</p>
<p>Scrap metal Determination of applications for site and mobile collectors licences, review and revocation of licences, imposition of conditions, closing of unlicensed sites and setting of policy in relation to such licences.</p>	<p>Scrap Metal Dealers Act 2013</p>

For each power set out in Tables 1 and 3 all associated enforcement powers are also delegated to committee to allow effective administration of the licensing regimes concerned. The administration and enforcement of all relevant regulations made under the Acts referred to is also delegated to committee for these purposes.

Table: Delegation of Functions Licensing Act 2003				
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer	Delegation to officers allowed?
Determining the grant, or variation: Application for a Premises Licence/Club Certificate/Provisional Statement or variation of any of these		If relevant representations made	If no relevant representations made	Not if a representation has been made
Application for a Minor Variation			All cases	Yes
Application for the Transfer of a Premises Licence		If relevant representations made	If no relevant representations made	Not if a representation has been made

Application for a Variation of a Designated Premises Supervisor		If relevant representations made	If no relevant representations made	Not if a representation has been made
Application for a Standard Temporary Event Notice		If relevant representations made by police/environmental health officer	If no relevant representation made	Not if a representation has been made
Application for a Late Temporary Event Notice			In all cases	Not if a representation has been made
Application for a Personal Licence			All cases	Yes
Application for a Personal Licence with unspent relevant convictions		if police objection	if no police objection	Not if a police objection is made
Personal Licence Suspension, Revocation		Relevant Convictions	No right to work	Not if a police objection is made

Application for an Interim Authority Notice		If police objection	If no police objection	Not if a police objection is made
Application for a Review of a Premises Licence/Club Premises Certificate		All cases		No
Request to be removed as a Designated Premises Supervisor			All cases	Yes
Decision on whether a representation is irrelevant frivolous vexatious			All cases	Yes
Determination of application to vary premises licence at community premises to include the alternative licence condition		If police objection	If no police objection	Not if a police objection is made
Decision to object when local authority is a consultee and not the relevant authority considering the			All cases <i>in consultation with Chair of Committee</i>	Yes

application				
EMRO	All Cases	All Cases		No
Late Night Levy	All Cases	All Cases		Yes
Cumulative Impact Policy	All Cases	All Cases		No
Closure Notices				No

Table: Delegation of Functions Gambling Act 2005				
Matters to be dealt with	Licensing Committee	Licensing Sub-Committee	Licensing Officer	Delegation to officers allowed?
Final approval of the Licensing Authority Statement of Licensing Policy	X			
Policy not to permit Casinos	Full Council			No
Determining the grant, or variation: Application		Where representations have been received and not	Where no representations received/representations have been withdrawn	Not if a representation has been made

for a Premises Licence, Provisional Statement		withdrawn		
Application for a Variation of a Licence		Where representations have been received and not withdrawn	Where no representations have been received/representations have been withdrawn	Not if a representation has been made
Application for the Transfer of a Premises Licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority	Not if a representation has been made
Application for a Review of a Premises Licence		In all cases		No

Application for club gaming/club machine permits		Where objections have been made and not withdrawn	Where no objections have been made/objection have been withdrawn	Yes
Cancellation of club gaming/club machine permits				Yes
Applications for other permits			All cases	Yes
Cancellation of Licensed Premises gaming machine permits			All cases	Yes
Consideration of temporary use notices			All cases	Yes

Counter notice to temporary use notice			All cases	Yes
<p>X indicates lowest level to which decision can be delegated. A sub-committee or an officer to whom a power has been delegated may refer the matter concerned to a higher level for consideration by a Committee or sub-committee if they have concerns about the issues.</p>				