



LICENSING SUB-COMMITTEE

MEETING : Thursday, 30th September 2021

PRESENT : Cllrs. Finnegan, Hyman and O`Donnell

Officers

Head of Law (Litigation & Business Development), One Legal
Community Wellbeing Officer
Democratic and Electoral Services Officer

Also in Attendance

QC, 11KBW (representing the applicant)
Solicitor, Poppleston Allen
Senior Compliance Auditor, Merkur Slots UK Limited
Head of Product, Merkur Slots UK Limited
Operations Director, Cashino Gaming Limited

Licensing Lawyer, Woods Whur (representing the interested party)
Manager, Iludo Limited

APOLOGIES : None.

1. ELECTION OF CHAIR

Councillor Finnegan was elected Chair.

2. WELCOME AND INTRODUCTIONS

Those present introduced themselves and the Chair outlined the procedure to be followed for the meeting.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

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4. APPLICATION FOR DETERMINATION

Community Wellbeing Officer's Report

Additional material had been circulated after the publication of the agenda by both the applicant (Merkur Slots UK Limited) and the interested party (Iludo Limited). The applicant circulated a hearing bundle and a supplemental pack. The interested party circulated a hearing bundle.

The Community Wellbeing Officer presented the report inviting members to consider and determine an application made by Merkur Slots UK Limited for a premises licence under section 159 of the Gambling Act 2005 (the Act).

No one present sought clarification on the report of the Community Wellbeing Officer.

Statement of the Applicant (Merkur Slots UK Limited)

Counsel representing the applicant, stated that they had provided an overwhelming amount of evidence supporting the application for a bingo premises licence and that he would go off the assumption that members had had an opportunity to read the skeleton argument and supporting documentation. He said that he would therefore focus on nine brief points in support of the application by his client.

- 1) Merkur Slots UK Limited (hereafter shortened to Merkur or Merkur Slots) were one of the most experienced and largest gaming providers in the United Kingdom. He stated that Merkur Slots UK were licenced by the Gambling Commission and that their systems were internationally accredited. He stated that in Gloucester, staff, who would work for Merkur Slots, would have had to have received six weeks of training.
- 2) Counsel representing the applicant stated that Merkur had set out a standard of excellence. He added that this was evidenced by the fact that Merkur had 192 licenced premises, many in challenging locations and that it had received a licence in every place it had applied in. He stated that none of Merkurs licensed premises had ever gone to a review. Counsel representing the applicant, stated that the applicant not only met the requirements outlined by the Gambling Commission, local authorities, and other relevant parties, it exceeded them. He stated that Merkur subject their premises to audits, quizzes their staff on safe gambling policies, send in mystery customers and undertake test purchases to ensure that each of their sites were compliant.
- 3) Counsel representing the applicant said that there were no objections to the application by the Police, expert advisers, members of the public, the local authority, nor any body or agency concerned with safeguarding. He stated that the only objection came from a rival trader. He stated that the Police had no objections even when Merkur were proposing 24/7 opening hours, which it was no longer doing.
- 4) Counsel representing Merkur Slots stated that the clientele did not engage in anti-social behaviour for a myriad of reasons. He stated that the product, the calm environment of their premises, the strong training of staff, and the

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management all worked in tandem to create a pleasant environment, which discouraged anti-social behaviour. He stated that the demographic of Merkur's Bingo Premises was different to betting shops. He said that there would be no alcohol served on site, and that teas and coffees would be provided instead. He stated that number of persons on site was usually low and that the clientele were easy to monitor partially owing to this. He stated that there was not a tendency for groups of people to gather outside of the premises, like in a gambling shop, that staff were actively trained to monitor the area, that CCTV was deployed, that all incidents were logged, that staff carried tablets to record incidents and Senior Management were consulted on any incident. Counsel representing the applicant said that the Police were wholly aware of these facts, hence why they had not objected to the application.

- 5) Counsel representing the applicant, stated that his client had applied for a Bingo Premises licence, and under the law, would be permitted to allow children on the premises and to serve alcohol. However, he said that his client had chosen not to do that. He said that there would be no alcohol served, children would not be allowed on premises and that gaming machines were not visible from the outside.
- 6) He stated that Gloucester's Gambling Policy did not contain any presumptions against Licences in different locations. He stated that there was not a Cumulative Impact Assessment for Gambling. He said that his client had carried out a full and thorough risk assessment.
- 7) Counsel representing the applicant stated that should the licence be granted by the Sub-Committee then there would be extensive legal obligations on the licence that would be adhered to. He stated that these came various places, from the Gambling Licence Code of Practice, to mandatory conditions placed on all gambling premises, to the additional conditions put on the licence that were offered by his client. He stated that one of the conditions offered by his client was to reduce hours from being open 24 hours a week to closing on Midnight between the days of Sunday to Thursday and to close at 1am on Friday and Saturdays. He stated that out of all of the licenced premises Merkur had, only nine had reduced their hours, and that Gloucester would be the tenth. He stated that all proposed conditions were supplemented by operational standards.
- 8) Counsel representing the applicant, stated that the one representation in opposition to the application was not a responsible authority, but a trader and that there had not been a single responsible authority who had objected. He added that no neighbour, resident, or business had objected either. He stated that the one objector did not have any additional conditions imposed on their licence at their business in Westgate Street. He stated that trade objections used to be commonplace. However, that changed after 2007, when the Gambling Act – 2005 was passed which outlined that commercially motivated objections to premises being granted were meant to stop. He stated that the question for members of the Licensing Sub-Committee was whether there was any substance to the objection outlined by the interested party, which was outlined in page 55 of the Councils Agenda Pack. He stated that the objection stated that the site did not 'lend itself' to premises of that nature.

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He stated that the comment outlined was an opinion, and that there was no evidence provided by the interested party demonstrating that fact. He further added that it was not an opinion shared by any responsible authority. He said that the objection then went on to state that it would be single staffed, which was an assumption. He said that his client would assess and decide on how many staff were needed at various times of the day, depending on the demand. He said that the objection went on to say that the site would be open for 24 hours, when it would close at midnight on Monday to Thursday and would close at 1am on Fridays and Saturdays. He stated that his client had collated evidence from witnesses and knows that the Police had no objections to the application. He stated that Gloucestershire Constabulary's Head of Crime Prevention and Alcohol Licensing had no concerns with his clients proposed applications, nor were any concerns identified regarding an association between local licensed gambling premises and crime, disorder, nuisance, or anti-social behaviour. He stated that the objector's letter then went on to claim that its proximity to a McDonalds would attract children to the site when the other premises was far closer to McDonalds. He said that the objector also mentioned the fact that a Planning Application was rejected at the site as evidence. He stated that this application had nothing to do with the Planning Application.

- 9) He stated that his final point was regarding the comment from the objector that the applicant would not be able to support the Licensing Objectives. He stated that there was nothing to suggest, from the clients history, the way it trained staff, the way it controlled their operation, or the views of any authority that they would undermine the Licensing Objectives. He stated that his client had already offered conditions and would be happy to discuss with members of the Sub-Committee, any reasonable tweaks and that if the Gloucester premises was unlike their other 192 premises and had issues regarding the promotion of the Licensing Objectives, then there would be a right to review it.

The Chair asked members and other interested parties, whether they sought any clarification on the statement provided by Counsel representing the applicant. No one sought clarification.

Statement of the Interested Party (Iludo Limited)

Counsel representing Iludo Limited (hereafter shortened to Iludo) stated that Iludo had ten years' experience in the field relating to Gambling Premises and that he would be using his statement to cover the application itself, it's unsuitable location, the planning refusal and the s153 aim to permit in his statement.

He stated that Iludo would request refusal of the application. He stated that members would be aware that the application was for a Bingo premises licence. However, he stated that the applicant failed to admit that there would be numerous higher stake B3 Machines and would essentially operate as a Gaming Den,

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particularly after the hours of 11pm. He stated that page 63 of the agenda pack made clear that Merkur would be allowed to have up to '20% of the total number of gaming machines' to be the higher stake B3 machines. He stated that the applicant had failed to provide the exact number of B3 machines that would be used. He stated that on a rough count, it seemed that there would be 42 machines, therefore around eight would be of the higher and more dangerous B3 variety. He stated that regarding the opening hours, they were only provided the amended opening hours recently. He added that even with the reduced opening hours, they would still be open to 1am on Friday and Saturday and would attract intoxicated persons leaving public houses, which could lead to a rise in anti-social behaviour. Counsel representing the interested party pointed page 308 of the applicants pack. He stated that he had three points to raise in relation to this:

- 1) That Gaming Machines could only be made available in licensed bingo premises only where there were also substantive facilities for non-remote bingo. He stated that the fact that the site would be open past 12am on Friday's and Saturdays and that there would be no non-remote Bingo played during this time contradicted this point.
- 2) Facilities for Gambling must always provide appropriate supervision. He stated that the fact that it could be single staffed contradicted this point.
- 3) Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premise licensed for the purposes of providing bingo facilities. He stated that the frontage of Merkur Slots facilities did not make it clear that they were used for bingo and that children and other vulnerable persons may be attracted to the site and try to access it.

He stated that it was his and the interested party's view that the application was not for a bingo premises but rather an Adult Gaming Centre, owing to the number of high stakes machines that there would be. He stated that the location was also inappropriate, as evidenced by the supporting documentation circulated to members prior to the meeting, which showed a high level of crime on Northgate Street. He stated that it was almost double than in Westgate Street.

He pointed to page 314-15 of the applicant's bundle which had advice from the Gambling Commission. The advice stated that 'licensing authorities may need to consider the location of premises' when considering whether to grant a licence, particularly if the area is one that was noted for high levels of criminal activity. He said that the area did have a high level of criminal activity and was in an inappropriate location. He stated that paragraph 5.8 of the Gambling Commission's guidance stated that licensing authorities had the ability under s.169 of the Gambling Act to attach additional conditions, such as the requirement for door supervision. He stated that he was aware that Merkur Slots operated with door supervision on some places and believed that owing to its location, the Gloucester premises should also have dedicated door supervision. Regarding the location of the building, Counsel representing the interested party stated that Northgate Street was far busier than where his clients business was situated, which was reflected in the crime statistics provided. Counsel representing the interested party introduced a local Operations Support Manager, to address the Sub-Committee.

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The Operations Support Manager stated that he had been working the area for five years. He stated that he was not anti-gambling but that the main issue with the application was the opening hours and the location. He stated that Northgate Street was a road that people had to walk through to get to the transport links, such as the buses and trains and that the area outside of his establishment he worked at was not always pleasant at 11pm, therefore this would be exacerbated by a 1am closure. He stated that Merkur Slots were a great operator, but the opening hours mixed with the location would lead to an increase in anti-social behaviour and unwanted attention.

Counsel representing the interested party stated that the experience provided by the Operations Support Manager combined with the crime statistics helped to demonstrate that the application should be rejected. He pointed to page 83 of the Council agenda pack which contained the Gambling Act Statement of Principles. He stated that it made clear that Licensing Authorities had 'specific measures' to take action to protect children and other vulnerable persons from being harmed or exploited by gambling. He stated that the conditions relating to CCTV would do nothing to deter crime.

He stated that the looking at the size and layout of the site, he and his client would hope that the site would be double staffed. He stated that with staff walking about and the size of the premises, vulnerable or young persons could walk in and gamble without being spotted. He stated that some conditions were at odds at Merkur's own policies. He stated that Merkur Slots claimed that they operate a robust late-night working policy, which was fully supported by a full-night-time manager. He stated that Merkur could not achieve this, should they single staff at night-time. He further added that Merkur claimed that 'individuals who are deemed to be under the influence of excessive alcohol should be prevented from entering any of our premises'. He stated that this would hard if not impossible to achieve with single staffing or no dedicated door staff, particularly at night where the staff member may be roaming and when the pubs kick out their clientele around 11pm. He stated that there would be no duty manager to assist with difficult customers at night if the premises were single staffed.

He stated that considering the issues that there would be after 11pm, when the pubs were turned out, they would ask that if the Sub-Committee did not refuse the application outright, that they introduced an additional condition to shut at 11pm and one to introduce mandatory double staffing so that it was never single staffed, thus promoting the Licensing Objectives.

He stated that the site should be double staffed according to their own standards and that it would ensure the safety of the staff and clientele who used the premises. He stated that being open to 1am on Friday and Saturday would attract those under the influence of alcohol after they have left the pub. He stated that the other Adult Gaming Centre in the City did not operate after 11pm, so the reduction in hours, should there not be a full refusal would bring Merkur Slots in line with other establishments and help to promote Licensing Objectives and bring them in line with LCCP requirements for appropriate supervision.

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He stated that in regard to the refusal of planning permission, his client was fully aware of Section 210 of the Gambling Act2005 which stated 'that 'in respect of an application a licensing authority shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with law relating to planning or building'. However, he stated that the planning refusal had partly been rejected due to littering and anti-social concerns and that the application was parallel to the licensing application.

He stated that he and his client were aware that S153 of the Gambling Act2005 stated that a Licensing Authority had an aim to permit, as long as it was in code with the relevant code of practice, in accordance with relevant guidance, reasonably consistent with licensing conditions and in accordance with the licensing authorities statement of principles. However, he stated that the specific location of the site, combined with the opening hours would undermine the Licensing Objectives and that if S153 was taken to its logical conclusion, that there would never be a Sub-Committee.

He stated that in summary, he believed that the application should be refused due to insufficient measures being put in place by the applicant to protect children and other vulnerable persons. He said that it should also be rejected as the applicant's application would not prevent the gambling site being a source of crime and disorder. He stated that it was his and his clients belief that the main purpose of the application was not for Bingo, but for Adult Gaming, that there would be far higher number of high value B3 machines than in Betting Shops and that the premises would be used as a Gaming Machine Den not a Bingo premises. He stated that the location was a key issue regarding the application. He stated that the crime figures that had been presented, the oral evidence provided by his client, the late hours and that the fact that if it were single staffed, then the applicant would be unable to be in line with their own policies meant that they would ask if the Sub-Committee did see fit to aim to permit that they introduce mandatory double staffing and reduced hours to meet Licensing Objectives.

The Chair asked members, Counsel representing the applicant and other relevant parties, whether they sought any clarification on the statement provided by Counsel representing the interested party. No one sought clarification.

Members' Questions to the Applicant

Councillor Hyman asked the applicant how many gaming machines would be on the premises, what the minimum stake on gaming machines would be and whether problem gamblers would be able to come in and use the machines without any safeguarding measures.

In response, Counsel representing the applicant stated that there would be twenty Bingo tables. The minimum stake on those would be five pence, the maximum would be £2.00. He stated that the law used to stipulate that Bingo and Adult Gaming Centres, had to have a limited number of machines, but that the law had changed so that there was not a limit on the number. He said that only 20% of

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machines at a Bingo Premises could be of the higher stake variety, and that 80% would have to be of Category C, which were the same stake as those at Public Houses. Regarding whether someone could come in and play the machines, Counsel representing the applicant stated that someone would be able to come in, in the same way they could in a Public House or a Betting Shop. He stated that the law now stipulated that Bingo Premises had to offer substantive space in which to play Bingo but did not need to primarily provide it. He stated that regarding vulnerable persons using and accessing the machines and the premises, that there were many laws on that topic. He stated that his client protected the vulnerable more than what was required by law and took safeguarding incredibly seriously. He stated that there were posters dotted across his clients premises, for sites such as *BeGambleAware.org* with messages such as 'when the fun stops, stop'. He stated that operators were required to train their staff in customer interaction, that staff had to observe behaviour and if the customer displays poor behaviour then they were trained to go over and there needs to be an interaction which is reported. He stated that his client protected the client to a standard of excellence.

The Chair noted that she was impressed with the level of detail provided by the applicant in support of the application. She asked how Merkur managed to ascertain these figures.

Counsel representing the applicant stated that Merkur Slots had a compliance team who provided thorough research into an area before Merkur make an application for a premise there.

The Chair asked whether Merkurs compliance team had visited the City of Gloucester before making their application.

Counsel representing the applicant stated that their compliance team did visit local areas before making an application and that they liaised with local authorities.

Members' Questions to the Interested Party

The Chair asked Counsel representing the interested party for more detailed statistics relating to crime on Northgate and Westgate Street.

Counsel representing the Interested Party replied with the following statistics taken from Gloucestershire Constabulary's website.

May 2021

Westgate Street – 5 Crimes
Northgate Street – 12 Crimes

June 2021

Westgate Street – 9 Crimes
Northgate Street – 8 Crimes

July 2021

Westgate Street – 5 Crimes
Northgate Street – 10 Crimes

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Councillor Hyman asked how close the interested party's premises was to McDonalds.

Counsel representing the interested party replied that it was approximately 30 metres away from McDonalds.

Councillor O'Donnell noted that an argument made by the interested party was that the granting of the licence would lead to an increase of anti-social behaviour on site. He asked the Operations Support Manager whether their site attracted any anti-social behaviour.

The Operations Support Manager replied that he could not remember the last time that they needed to call the police, and that he did not believe that anti-social behaviour was caused by their establishment, it was caused by surrounding bars and restaurants. Counsel representing the applicant stated that this was why his clients premises shut at 11pm, as persons leaving the local pubs would congregate and would have to walk past Merkur's establishment to get to nearby traffic links so would be attracted to gamble and commit anti-social behaviour.

Officer Sum Up

The Community Wellbeing Officer outlined the options to the Sub-Committee detailed in paragraph 7.4 of the report.

Applicant Sum Up

Counsel representing the applicant stated that none of the critiques of the application made in the rival traders representation were shared by any responsible authority or expert advisor in Gloucester. He stated that the argument that Merkur were applying for a Bingo Licence when they would act as an Adult Gaming Centre was false. He stated that his client applied for a Bingo premises licence because they want to provide Bingo. He stated that the law did not stipulate how many gaming machines there could be. He said that the law stipulated that his client needed to ensure that there was a maximum of 20% of higher category gaming machines and that his client would do so. He stated that any customer would be fully aware that it was a Bingo establishment as evidenced by the shop frontage of other Merkur premises, where there is a sign that says that Bingo was played there.

He stated that in regard to the interested parties concern about the location, their argument ultimately boiled down to the fact that his clients establishment would be open for two more hours on Friday and Saturday and therefore, there would be an increase in crime. He stated that the issue with this argument was that there was no evidence to substantiate the claim. He stated that he believed that Councillor O'Donnell's question to the interested party regarding whether their premises attracted anti-social behaviour was a fair one, and the response by the interested party that they never had to call the police suggested that Merkur would also not attract bad behaviour. He stated that the crime figures provided for Northgate and

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Westgate Street were irrelevant unless his client's premises would add to them, and that there was no evidence for this. He stated that there were no grounds on which to require double staffing, and that if after opening, the demand was so high that his client felt it necessary to employ security staff, they would do so. He stated that a local Ladbrokes did not require double staffing, despite being thrice the size of the clients proposed establishment. He stated that staff could walk from the back to the front of the establishment in 4.5 seconds.

He stated that the idea of having to double staff when it was not required was 'risible'. He stated that, had the Police raised objections, regarding the opening hours or in relation to staff, then this would have been a material consideration. He stated that the opening hours were an operational consideration, and that his client would strongly object to further restricting hours, particularly as Merkur had already offered reduced hours, which they had offered to only nine of their other sites. He stated that the planning refusal was wholly irrelevant to this application. He said that the concern raised by the interested party about the proposed sites proximity to McDonalds and other facilities used by children was a strange submission when their premises was far closer.

He stated that, in regards to the aim to permit outlined in Section 153 of the Gambling Act2005, and the fact that there would never have to be an appeal if that logic was taken to its conclusion, he believed that it was an odd thing to say when the interested party launched the representation which stipulated the need for the Sub-Committee. He stated that the application was in accordance with the relevant code of practice and in accordance with the guidance set out by the Gambling Commission. He said that his client had offered controls, and that it was in accordance with the Council's Statement of Principles. He said that all of this was agreed upon by every expert consulted on the application. He stated that he would ask the Sub-Committee to aim to permit.

Interested Party Sum Up

Counsel representing the interested party stated that regarding the location of the proposed site, it was completely different than his client's premises, as Westgate Street was not on the throughfare for Gloucester. He stated that the main issues would come after 11pm, where there would be migration from persons who had drunk at public houses through Northgate Street and would be tempted to gamble and engage in anti-social behaviour. He stated that if this was primarily an application for a Bingo premises, then they would not be proposing having as many Gaming Machines as they were. He stated that it would only be used for Gaming between the hours of 12am and 1am on Friday and Saturday. He stated that the crime statistics coupled with the oral evidenced by the Operations Store Manager showed the issues with the location. He said that it was clear from the information that had been provided that the purpose of the application was for a gaming den, not a Bingo premises. He stated that Betting Offices could only provide up to 4, higher category machines, whereas Merkur would provide up to 12. He stated that he and his client believed that the premises should close at 11pm, to protect vulnerable people from gambling when intoxicated. He stated that the layout of the premises did not protect or promote the Licensing Objectives, the late hours and

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single staffing would mean that they could not meet their own procedures, and it would be easier for children to access the site, particularly with the amount of amenities specifically designed for children that were nearby. He stated that his client would ask for refusal. However, refusing that, they would ask for reduced hours and mandatory double staffing.

The Decision

The Sub-Committee having considered the request for a premises licence under section 159 of the Gambling Act 2005. Having read all of the paperwork submitted by the Applicant, the Interested Party, the committee report, and all the relevant guidance and considered all of the submissions at the hearing it resolved: -

To grant the application as requested subject to the mandatory conditions and the default conditions set out in the Act. The application is also granted subject to the conditions outlined by the Applicant in their application.

The Sub Committee has granted the application as it is satisfied, despite the concerns raised by the Interested Party, that the granting of the licence with the conditions attached will meet the licensing objectives as set out in the Act.

The Sub Committee did consider whether or not to impose a condition regarding the minimum number of staff but on this occasion, it decided that it was not necessary as the licensing objectives are met by the current conditions. The Sub Committee would however ask the applicant to consider minimum staffing numbers as any anti-social behaviour arising from the premises could amount to a ground for a review and inadequate staffing levels could be considered as a relevant matter for consideration at any review.

Right of Appeal

Any party who is aggrieved by the decision has a right of appeal to the Magistrates' Court within 21 days.

Time of commencement: 6.00 pm hours

Time of conclusion: 7.55 pm hours

Chair