

Gloucester City Council

Meeting:	Licensing Sub-Committee	Date:	30th September 2021
Subject:	Application for a premises licence under section 159 of the Gambling Act 2005		
Report Of:	Head of Communities		
Wards Affected:	Westgate		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Rebecca Tuck – Community Wellbeing Officer		
	Rebecca.Tuck@gloucester.gov.uk	Tel: 396678	
Appendices:	1. Merkur Slots Application and associated documents – 5 Northgate Street		
	2. Representation Iludo Limited – 27 Westgate Street (interested party)		
	3. Location plan showing location of 5 Northgate Street and 27 Westgate Street		
	4. Gambling Commission Guidance to LA's (5th edition)		
	5. GCC Gambling Act Statement of Principles		
	6. Mandatory and Default conditions (bingo premises)		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 For members to consider and determine an application by Merkur Slots UK Limited for a premises licence under section 159 of the Gambling Act 2005 (the Act) to be known as Merkur Slots. The matter has been referred to the Sub-Committee following a representation received by an interested party concerning the likely effect of the grant of this application on the promotion of the licensing objectives.

2.0 Recommendations

2.1 That having considered the application and any relevant representations, the legislative provisions, and the Councils Gambling Act Statement of Principles Members have the following options as considered necessary to promote the licensing objectives:

- To grant the application
- To grant the application with further conditions attached
- To grant the application with an excluded condition that would otherwise be attached to the licence by virtue of section 168, or
- To reject the application

3.0 Background and Key Issues

- 3.1 Under the Gambling Act 2005, the Gambling Commission has primary responsibility for issuing operators licences and personal licences while the local authority has primary responsibility for issuing premises licences. Gaming and betting establishments are normally required to obtain all three types of licence before they are able to operate lawfully. No premises licence may be issued without an operating licence having been obtained from the commission.
- 3.2 S.1 of the Act sets out the three licensing objectives that underpin the regulation of the gambling industry:
- a) preventing gambling from being 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
 - c) protecting children and other vulnerable persons from being harmed or exploited by gambling
- 3.3 S.153 of the act directs a licensing authority to aim to permit the use of premises for gambling in so far as it thinks it is:
- a) in accordance with any relevant code of practice
 - b) in accordance with any relevant guidance issued by the commission under s.25
 - c) reasonably consistent with the licensing objectives, and
 - d) in accordance with the licensing authority's statement of principles
- 3.4 In determining applications for premises licences, the Act also explicitly sets out two principles that licensing authorities should not have regard to:
- S.153 makes it clear that in deciding whether or not to grant a licence, a licensing authority must not have regard to the expected demand for gambling premises.
- S.210(1) of the Act states that 'In making a decision 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'.
- 3.5 S.158 of the Act defines an interested party in relation to an application for a premise licence, as being a person who lives sufficiently close to the premises to be likely affected by the authorised activities, or have business interests that might be affected by the authorised activities, or represent persons identified above.
- 3.6 S.162 of the Act requires the Licensing Authority to hold a hearing where an interested party or responsible authority has made (and not withdrawn) relevant representations, or the authority propose to attach a condition to the licence under section 169(1)(a), or the authority propose to exclude under section 169(1)(b) a condition that would otherwise be attached to the licence under section 168.

4.0 The Application

- 4.1 An application was submitted by Poppleston Allen licensing solicitors acting on behalf of Merkur Slots UK Limited to the Community Wellbeing Team on 22 April 2021. The application and associated paperwork are attached as (**Appendix 1**) of this report.
- 4.2 the application relates to 5 Northgate Street which was formerly occupied by the Yorkshire Bank.
- 4.3 The application was served on all the Responsible Authorities and advertised in accordance with the regulations.

5.0 Representations

- 5.1 The Licensing Authority received one representation objecting to the application during the consultation period, which ended on 20 May 2021. This representation was made by Woods Whur solicitors acting on behalf of Iludo Limited who are an 'interested party' under the act. The interested party's concerns which centre around all three of the licensing objectives can be seen at (**Appendix 2**) of this report.
- 5.2 Iludo Limited is a licensed Adult Gaming Centre (AGC) situated at 27 Westgate Street, Gloucester GL1 2NW.
- 5.3 For ease of reference a location plan showing the location of 5 Northgate Street and 27 Westgate Street is attached as (**Appendix 3**) of this report.
- 5.4 When considering this representation, members should note that the Gambling Commission guidance to local authorities indicates that in terms of the reference to disorder in the first objective 'disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
- 5.5 Members should take into account any relevant codes of practice when determining this application. The applicant is a national operator and their proposed operating model and premise layout accords with the Gambling Commission's licence conditions and code of practice (LCCP).
- 5.6 Members should also take into account the Gambling Commissions Statutory Guidance to licensing authorities (5th edition) issued under section 25 of the Act. The most relevant sections to this application are reproduced at (**Appendix 4**) of this report for reference purposes.
- 5.7 Members should also consider the licensing objectives under the Gambling Act 2005 (para 3.2 of this report) and the Council's own Statement of Principles attached as (**Appendix 5**) of this report.
- 5.8 If members determine to grant this application, the licence will be issued subject to the mandatory and default conditions prescribed in the Act and associated Regulations which are set out in (**Appendix 6**).

5.9 The applicant and the interested party who submitted a relevant representation have been invited to attend the hearing and have been provided with copies of this report and the hearing procedure.

6.0 Financial Implications

6.1 There are no direct financial implications attached to the recommendations in this report. However, Members are advised that the applicant or the person making the representation has a right of appeal against any decision made by the Licensing Sub-Committee. At any such appeal costs may be awarded against the Council on a successful appeal if the Council has not acted reasonably.

(Finance has been consulted in the preparation of this report)

7.0 Legal Implications

7.1 The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives which are:

- a) preventing gambling from being 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
- c) protecting children and other vulnerable persons from being harmed or exploited by gambling

7.2 In making its decision, the Sub-Committee is also obliged to have regard to the Gambling Commissions guidance to local authorities (5th edition) and the Council's own Gambling Act Statement of Principles.

7.3 The Sub-Committee must also have regard to the contents of the application and the representations made against the application and give appropriate consideration to all of the evidence presented.

7.4 The Sub-Committee must consider whether or not it is appropriate to take further steps to promote the Licensing Objectives. If it considers that some form of action is appropriate then it may take such of the following steps as it considers necessary for the promotion of the Licensing Objectives:

- to grant the application
- to grant the application with further conditions attached
- to grant the application with an excluded condition that would otherwise be attached to the licence by virtue of section 168, or
- to reject the application

7.5 In deciding what, if any, steps to take the Sub-Committee should, so far as possible seek to establish the cause or causes of the concerns that the representation identifies and should try to ensure that any remedial action taken is directed at these causes and is no more than an appropriate and proportionate response to address the causes of concern.

7.6 Both the applicant and the interested party have the right of appeal to the Magistrates' Court against a decision of the Licensing Sub Committee. They can

appeal if they think the licence should or should not have been granted or the committee should have imposed different, less or extra conditions on the licence. Any appeal should be within 21 days of being notified in writing of the committee's decision.

(One Legal have been consulted in the preparation this report).

8.0 Risk & Opportunity Management Implications

8.1 There is a right of appeal to the Magistrates' Court for both the applicant and the interested party. Costs may be awarded against the Council on successful appeal if the Council has not acted reasonably.

9.0 People Impact Assessment (PIA):

9.1 The Screening Stage considered risks to licence holders in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.

9.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

10.0 Other Corporate Implications

Community Safety

10.1 None

Sustainability

10.2 None

Staffing & Trade Union

10.3 None

Background Documents:

- Gambling Act 2005
- Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) regulations 2007
- Gloucester City Council's Gambling Act Statement of Principles 2019-2022
- Gambling Commissions licence conditions and codes of practice (LCCP)
- Gambling Commissions guidance to local authorities (5th edition)