

**GAMBLING ACT 2005**

**APPLICATION AT 59 WEEK STREET, MAIDSTONE, ME14 1QU**

**RESPONSE ON BEHALF OF ROTUNDA EQUIPMENT LEASING LTD TO  
MAIDSTONE BOROUGH COUNCILS LETTER OF 25 NOVEMBER 2015**

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## 1. INTRODUCTION

- 1.1 This document responds to the Council's letter of 25 November 2015 in relation to the application for an Adult Gaming Centre premises licence at 59 Week Street, Maidstone by Rotunda Equipment Leasing Ltd.
- 1.2 The applicant is one of a group of companies in the ownership of and run by members of the Godden family based at Unit H, Concept Court, Folkestone CT19 4RH. The group operates 15 adult gaming centres and 3 bingo premises in Kent and the Greater London area as well as a number of unlicensed Family Entertainment Centres.
- 1.3 The application is opposed by Cashino Gaming Ltd who (whilst we have not seen their licence) operate Adult Gaming Centre premises at 74 Week Street, Maidstone. According to their website Cashino operate 150 high street venues and the 'Beacon' chain of bingo clubs.
- 1.4 The application premises are on the west side of Week Street opposite Primark not far from the objectors premises and in what would generally be regarded as a better retail location.

## 2. THE APPLICATION PLAN

- 2.1 The Council's correspondence says (letter of 25 November 2015) that *'the application is compliant with the requirements of s 159 of the Gambling Act and the Regulations made thereunder'* but has *'concerns that the plan submitted with the application is insufficient in that it fails to sufficiently specify the location and extent of any part of the premises in which the gaming machines will be made available'*.
- 2.2 It is noted that there is no suggestion that the application is not compliant with Regulation 4(2) which refers to the requirements of plans for applications for all kinds of premises. The *'concerns'* refer solely to Regulation 4(6) which requires the plan to *'show the location and extent of any part of the premises in which gaming machines will be made available for use'*. In this case the gaming machines will be in the area edged red on the plan.
- 2.3 It should also be noted that the applicant is not required to:-
  - Use any form of edging, colouring or shading for the area in question.
  - Show the precise position of machines (or any other facilities) within the area *'in which gaming machines will be made available for use'*.
  - Show an area exclusively for gaming machines. There will, inevitably, be other facilities (for example counters, change machines, ATMs, drinks machines etc) as well as circulation space adjacent to and around the gaming

machines and in this same area. It would be impossible to define the 'gaming machine' area excluding these other elements.

- 2.4 Accordingly the terminology of Regulation 4(6) is not exclusive but inclusive. That is to say it covers the area in which the gaming machines are to be situated as well as the necessary circulation and customer space round them and, inevitably, the other facilities the premises will provide. In the circumstances the Regulation cannot be interpreted to mean that the area to be shown is an area to be used for gaming machines only – as seems to be suggested by the Council's query. Equally it cannot be interpreted to mean the operator must have machines at all times in every square metre of the area outlined.
- 2.5 Turning to the application premises, it is intended that there will be machines in the main body of the premises (the former shop) and in the rear yard which will be used as a customers smoking area. The corridor enabling circulation between those areas is included in the 'red-lined' area for the sake of convenience even though there may not be machines there.
- 2.6 The Council's letter queries why the window display areas are included in the red-lined area. I took the view that although it is intended that there will be window displays on either side of the door the extent of those displays may vary (they may perhaps at some time in the future be reduced) and the displays may perhaps include gaming machines and therefore it would be prudent to include them in the 'red-lined' area. As it is inclusive rather than to show where only gaming machines will be located it is a perfectly legitimate approach.
- 2.7 I should just deal with the issue of placing machines in the rear yard for the use of smokers. It is a facility most operators of premises of this kind, bingo clubs and the like (including the objector) seek to offer. There will be no separate access from the rear by the public into this area. It will have an emergency exit which will be alarmed to ensure its proper use. The rear area will be supervised as required by staff and covered, like the interior and external frontage of the premises, by CCTV. The CCTV system will have a secure recording system.

### **3. SUITABILITY & MANAGEMENT**

- 3.1 The applicant company is run by Jeremy and Jordan Godden (both shareholders) and Chief Operating Officer Stephen Lawrence. The latter was formerly an employee of the objector, Cashino Gaming Ltd. All have extensive experience in running premises of the kind envisaged. Managers/manageresses of the applicants premises report directly to the members of this management team.
- 3.2 The company is a member of the trade organisation BACTA and Jeremy Godden is Chairman of the Southern Section as well as a member of its National Council. BACTA is not just a representative trade organisation; it has developed

compliance policies approved by the Gambling Commission and runs a 'mystery shopper' scheme which is compulsory for members. This scheme tests general compliance and specifically tests compliance with age restrictions. The applicant has adopted BACTAs compliance policies (known as the 'Toolkit')

3.3 Unlike in the field of liquor licensing there is a further tier of control over gambling operators in the form of the Gambling Commission from whom an Operating Licence is required before a Premises Licence of the kind sought can be obtained. The Commission has ongoing scrutiny of licence-holders through enforcement officers who carry out structured inspections of operators premises.

3.4 Under the heading 'How operating licences are granted' in its Guidance to Licensing Authorities the Gambling Commission says:-

*'In considering whether to grant an operating licence, and any conditions that may be attached, the Commission has regard to the licensing objectives, and to the suitability of the applicant, in terms of integrity, competence and finances (including source of finance). The Commission also takes into account the business model proposed and its likely compatibility with the law and the licensing objectives.'* (paragraph 2.7)

It is fair to say, therefore, that in addition to the scrutiny of the applicants policies and procedures by the Council the applicant also has to satisfy the Gambling Commission in relation to those procedures initially when seeking an Operating Licence and thereafter on an ongoing basis.

3.5 There would be 2 uniformed members of staff on duty at all times. The management team is available to the manager by phone throughout trading hours and a member of that management team visits each site at least 4 times a week. Further, the CCTV system is accessible by the management team remotely enabling them to observe the premises at any time wherever they may be and to communicate with staff.

#### **4. COMPLIANCE POLICIES**

4.1 We have been asked to show that applicants are compliant with the Licence Conditions & codes of Practice published by the Gambling Commission. It is a condition of the grant and continued holding of an Operating Licence that an operator complies with the Licence Conditions and therefore compliance with them is a matter for the Commission. Strictly speaking it is the related Codes of Practice which a local authority has to test an application against (see below).

4.2 The licensing objectives (Section 1 of the Act) are:-

- *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*
- *protecting children and other vulnerable persons from being harmed or exploited by gambling.*

4.3 The discretion of a licensing (local) authority is as follows (from Section 153 and paragraph 4.9 of the Guidance to Licensing Authorities):-

*S.153 provides that licensing authorities shall aim to permit the use of premises for gambling in so far as they think it is:*

- a. in accordance with any relevant code of practice under s.24*
- b. in accordance with any relevant guidance issued by the Commission under s.25*
- c. reasonably consistent with the licensing objectives (subject to a. and b. above), and*
- d. in accordance with the licensing authority's statement of licensing policy (statement of policy) (subject to a. to c. above).*

4.4 It is to be noted that a local authority should '*aim to permit*'; a presumption which is different from the approach authorities take under the Licensing Act.

4.5 The applicants policies (the BACTA Toolkit attached) ensures compliance with the Codes of Practice referred to above and in Section 24 of the Act (it therefore complies with **a** above – from section 153 of the Act).

4.6 I have dealt with the nature and running of the proposed premises and the various other issues raised in the 'Guidance to Licensing Authorities' in the context of the information provided in this document. The proposal accords with the Commissions guidance and therefore it complies with **b** above – from section 153 of the Act.

4.7 The proposal is 'reasonably consistent' with the licensing objectives (set out in paragraph 4.2 above). The management, layout and supervision proposed, the CCTV, the applicants policies will (as they do elsewhere) ensure that the premises are not a source of crime and disorder and that children and the vulnerable are protected from harm. Accordingly the proposal complies with **c** above – from section 153 of the Act.

4.8 Equally BACTA Toolkit ensures compliance with the Councils current (2013) 'Statement of Gambling Principles', in particular its approach to the Licensing Objectives and the specific guidance on the licensing of Adult Gaming Centres (page 25). The latter refers to a number of issues:-

- *Proof of age schemes* – dealt with in the 'Toolkit'
- *CCTV* – a comprehensive system inside and outside at front and back.
- *Supervision of entrances / machine areas* – sufficient staff on duty

- *Physical separation of areas* – not applicable
- *Location of entry* - not applicable
- *Notices/Signage* – both at the entrance and inside
- *Specific opening hours* – controlled by planning permission
- *Self-barring schemes* - dealt with in the 'Toolkit'
- *Provision of information leaflets/helpline numbers for organisations such as GamCare.* - dealt with in the 'Toolkit'

4.9 It is also compliant with the draft revised 'Statement of Gambling Principles'. As a result it complies with *d* above – from section 153 of the Act.

4.10 The proposal is therefore consistent with the 4 factors against which an application should be tested in section 153 of the Gambling Act.

4.11 The sole (trade) objector has raised every conceivable objection to the application. Whilst not dealing with each objection in turn (please see my letter of 12 November for that) I consider I have, by reference to the applicants arrangements and policies dealt with all issues raised. I have not dealt with the criticism of the applicants failure to prepare and submit a 'local risk assessment' as referred to in paragraphs 6.41 – 6.44. These are not required until April 2016 when the applicant will ensure it is compliant.

## **5 CONCLUSION**

5.1 The application plan complies with the relevant provision in the regulations.

5.2 The operation of the premises is compliant with the Gambling Commissions Codes of Practice and Guidance to Licensing Authorities, with the Councils current and emerging Statement of Licensing Policy and is consistent with the Acts Licensing Objectives.

**R G Etchells FRICS**

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**December 2015**