

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING ACT 2003 SUB COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON MONDAY 28 MAY 2012**

**Present:**                **Councillor Mrs Joy (Chairman), and  
Councillors Mrs Gibson and Parvin**

1.     **DISCLOSURES BY MEMBERS AND OFFICERS**

There were none.

2.     **DISCLOSURES OF LOBBYING**

There were none.

3.     **EXEMPT ITEMS**

Resolved; That the items on the agenda be taken in public as proposed but the deliberations relating to agenda items 4 and 5 relating to the application for a betting premise licence for Paddy Power at 9 Gabriels Hill, Maidstone be taken in private because of the possible disclosure of the financial or business affairs of Power Leisure Ltd and possible legal issues.

4.     **TO DETERMINE WHETHER A REPRESENTATION RECEIVED UNDER S162(3)(C) OF THE GAMBLING ACT 2005 "WILL CERTAINLY NOT INFLUENCE THE AUTHORITY'S DETERMINATION OF THE APPLICATION" IN RESPECT OF PADDY POWER, 9 GABRIELS HILL**

The Head of Democratic Services introduced his report and explained that an application had been received from Power Leisure Bookmakers Ltd for a betting premises licence for Paddy Power at 9 Gabriels Hill, Maidstone and through the normal process 1 representation had been received from Mr Lawrence Martin. He then made reference to 1.4.4 of the report that "S162 of the Act requires that the Licensing Authority must hold a hearing if an interested party has made a representation which is not withdrawn but MAY determine such an application without a hearing if they think the representations made are vexatious, frivolous or will certainly not influence the authority's determination of the application. He indicated that will certainly not influence the authority's determination of the application was the important phrase to be considered in this case as it was not considered that frivolous and vexatious were applicable. He said that there were no issues raised within the representation, indicating lack of accordance with the Gambling Commission Guidance, codes of practice and the Authority's statement of licensing principles or lack of consistency with the licensing objectives and recommended that members agree the recommendations in the report "In accordance with S162 (3)(c) of the

Gambling Act 2005, that it be determined that Mr Martin's representation "will certainly not influence the authority's determination of the application" and move to 1.3.2 "That it be agreed that as a result of the above no hearing be held into the application for a betting premise licence for 9 Gabriels Hill by Paddy Power". He also recommended consideration of the decision be taken in private and therefore the Sub-Committee:-

**Resolved:** That the public be excluded from the meeting for the following items of business because of the likely disclosure of exempt information for the reason specified, having applied the public interest test:-

#### **Head of Schedule 12A and Brief Description**

To Determine whether a representation received under S162(3)(c) of the Gambling Act 2005 "will certainly not influence the authority's determination of the application" Proceedings in respect of Paddy Power, 9 Gabriels Hill

Paragraph 3 – Financial/  
Business Affairs  
5 - Legal Professional  
Privilege/Legal

**Decision made:** Members of the sub-committee have considered the representation made on 16, April 2012 by Mr L.J Martin, chairman of the Golden Boot, a business at 25 – 31, Gabriels Hill, Maidstone, relating to an application for a Betting Premises licence at 9, Gabriels Hill, Maidstone by Power Leisure Bookmakers Ltd.

Whilst accepting that he is an interested party under s158 of the Act they determined that his representation will certainly not influence the authority's determination of the application and having considered their discretion to determine the application without a hearing on that basis also decided to determine the application without a hearing.

Their reasons for this decision are that all determinations are required by s153 of the Gambling Act 2005 to aim to permit the use of premises for gambling so far as they think it is in accordance with any relevant code of practice under s24 and relevant guidance issued by the Gambling Commission under s25, reasonably consistent with the licensing objectives, (subject to those two) and in accordance with the authority's statement of principles under s349 (subject to those 3). They cannot consider expected demand for the facilities applied for. Having taken this into consideration together with the application and the approach of the applicant to the licensing objectives supplied, having noted no representations from Responsible Authorities, Sub Committee Members are of the view that the issues raised by the representations would certainly not influence the authority's determination of the application because nothing indicates that the principles in S153 would not apply and that the aim to permit would be overcome (see individual responses to representations notice s164 (2)(c). In those circumstances a hearing would serve no practical purpose and could be dispensed with.

<i>Representation</i>	<i>Licensing authority's response</i>
1. Another betting premises should not be allowed in Gabriels Hill, as there are already 2 in the street	S153(2) of the Gambling Act 2005 does not allow the authority to have regard to expected demand for the facilities it is proposed to provide. Gambling Commission Guidance para 5.6 reiterates this and 7.53 indicates that a representation not likely to be relevant would include "there are already too many gambling premises in the locality"
2. Families visiting the Golden Boot should not have to avoid people crowding around another bookmaker.	The objectives under the Gambling Act 2005 do not include prevention of public nuisance and there is no evidence that this will occur at this premises, see Gambling Commission Guidance para 5.2
3. Another bookmaker would encourage undesirable people to loiter.	This does not raise an issue relevant to the licensing objectives under the Gambling Act 2005. Gambling Commission Guidance para 5.28 confirms that any decision to reject an application should not be based on a general notion "that it is undesirable to allow gambling premises in an area"
4. Several reports have been made to Police of what appears to be people passing drugs in the area of the application premises.	There is no evidence that the proposed premises would be a source of crime or disorder or that what may have taken place was associated with any gambling premises. There has been no representation from the Police or any others suggesting an increase in crime or concerns relating to crime in the area. Paddy Power's indicated approach to objective one is considered appropriate and proportionate.
5. The Council has a duty to protect the existing retail environment and encourage better quality shops.	This is not a consideration under the Gambling Act 2005 and whilst not relevant to this decision the interested party should be aware that no planning permission is required to change to A2 use from A3 use i.e. to Betting Shop from restaurant etc.

5. TO GRANT A BETTING PREMISES LICENCE IN RESPECT OF PADDY POWER, 9 GABRIELS HILL UNDER THE GAMBLING ACT 2005

The application was outlined to members by the Head of Democratic Services as per the papers and recommended consideration of the decision be taken in private and therefore the Sub-Committee:-

**Resolved:** That the public be excluded from the meeting for the following items of business because of the likely disclosure of exempt information for the reason specified, having applied the public interest test:-

**Head of Schedule 12A  
and Brief Description**

To grant a betting premises licence in respect of Paddy Power, 9 Gabriels Hill under the Gambling Act 2005

Paragraph 3 –  
Financial/business affairs  
5 - Legal Professional  
Privilege/Legal  
Proceedings

**Decision made:** Having considered the application and accompanying documents applying s153 of the Act, the duty to aim to permit the use of premises for gambling in so far as it is in accordance with any code of practise under s 24, any relevant guidance issued by the Gambling Commission under s25, reasonably consistent with the licensing objectives (subject to those two) and in accordance with the authority's statement of principles under S349 (subject to those 3). They cannot consider expected demand for the proposed facilities.

Sub-Committee Members were satisfied that the no matters were raised by the representation or otherwise such that the application did not comply with any of the above. The Sub-Committee were satisfied that the usual requirements of the Code of Practice, mandatory and default conditions nationally were sufficient and proportionate for this application.

The application is, therefore, granted as applied for.

**Informative-** parties should be aware that a licence can be reviewed should relevant issues arise.

This decision can be appealed by the applicant or persons making representations; to the Magistrates Court within 21 days of this decision being notified.

6. DURATION OF MEETING

10.00am – 11.15am