

Cashino Gaming Ltd
Seebeck House
1A Seebeck Place, Knowhill
Milton Keynes MK5 8FR



T: +44 (0) 1908 351200
F: +44 (0) 1908 669714
E: info@cashino.com
W: www.cashino.com

FAO - Ms L Neale
The Licensing Partnership
PO Box 182
Sevenoaks
Kent
TN13 1GP

By Email and Post : licensing@sevenoaks.gov.uk

Date : 3 November 2015
Your Ref : 15/03244/GAPRE

Dear Sir/Madam,

Application for Adult Gaming Centre Premises Licence by Rotunda Equipment Leasing Limited (T/A "Palace Amusements") for premises at 59 Week Street Maidstone ME14 1QU

This representation is made by Cashino Gaming Ltd which operates an Adult Gaming Centre at 74 Week Street, Maidstone ME14 1RJ. In this letter the following abbreviations are used: -

"The Act" means the Gambling Act 2015;

"The GC" means the Gambling Commission;

"The GC's Guidance" means the Gambling Commission's Guidance to Licensing Authorities 5th Edition;

"The LA" means Maidstone Borough Council as licensing authority under the terms of the Gambling Act 2015;

"The LA's SoLP" means the Council's Gambling Act Statement of Licensing Principles January 2013;

"The LA's Draft SoLP" means the Council's draft Gambling Act Statement of Licensing Principles 2016-2019;

"The LCCP" means the GC's Licence Conditions and Codes of Practice – February 2015; and

"The Licensing Objectives" means those set out in S1 of the Act.



Our above-mentioned premises and the business carried on there will be affected by the above application because the two businesses would be in direct competition. However, as will become apparent, while our application is plainly motivated by completion, it is firmly based on the potential impact of the proposal on the Licensing Objectives.

For the purposes of paragraphs 7.7.52 – 7.55 of the GC's Guidance and part 7 of both the LA's SoLP and the LA's Draft SoLP we confirm that: -

The size of the two sets of premises appears to be similar;

They share or will share the same 'catchment', that is, how far people travel or will travel to visit the premises (they are within easy striking distance of one another on Week Street); so

The person making this representation has business interests in that catchment area that might be affected.

In summary, our objection is that the application is so lacking in detail that the licensing authority ("LA") cannot possibly discharge its duty to: -

Aim to permit the use of premises for gambling insofar as it thinks it is: -

- a. In accordance with any relevant code of practice under s.24 (i.e. the LCCP);*
- b. In accordance with any relevant guidance issued by the Commission under s.25 (i.e. this Guidance); and*
- 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 (subject to a to c above)".*

That is because without far more detailed information, including but by no means restricted to plans, it is impossible to scrutinize or evaluate the impact of the proposal on the licensing objectives. As leading and reputable operators, it is vital to our interests that our commercial competitors are held to the standards that, at the GC's insistence, are applied to Cashino Gaming Limited, both in Maidstone and elsewhere.

That inability to properly scrutinize and evaluate is evident from an examination of the GC's Guidance published in updated form in September 2015. It is to be noted that the LA's SoLP and the LA's Draft SoLP pre-date the GC Guidance and, so, do not (yet, in the case of the latter document) reflect the GC's latest requirements. Of course, where there is inconsistency, the GC's Guidance must take precedence over the LA's SoLP (existing and draft) (see, for instance paragraph 5.20 of the GC's Guidance).

For simplicity, we therefore frame this representation around an examination of the GC's Guidance and, where appropriate, the LCCP (N.B. the February 2015 version was introduced against the background of the GC's controversial view that; "*The starting point for the review was to affirm the central thesis on which our system of gambling is based: the principle that responsibility for delivering the licensing objectives rests first & foremost with gambling operators*". We do not accept that view but it has not yet been challenged in Court.)

Unless otherwise stated, the paragraphs referred to below relate to the GC's Guidance and in each case the point we make is that the information provided by the applicant falls far short of that required to enable the LA, or in turn, Responsible Authorities and Interested Parties (including Cashino Gaming Limited) to begin properly to assess whether the business that would result from the grant of the current application would meet the requirements of the GC in terms of the Licensing Objectives: -

Paragraph 5.1: The LA will accept that "*particularly in relation to premises licences, ...licensing authorities must have regard to the licensing objectives*". It is therefore incumbent on the LA to itself be sufficiently informed of all aspects of the proposed premises and their operation that may impact the Licensing Objectives. The bare application in this case provides no such information and we are informed that neither is there a supporting statement. Having regard to the licensing objectives necessarily involves taking "*...account of local circumstances*" (paragraph 5.2).

Objective 1 : Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime – Per paragraph 5.3, "*the licensing authority should think about what, if any, controls might be appropriate to prevent [59 week Street] being associated with or used to support crime. That might include conditions on the premises licence, such as a requirement for door supervisors*".

We ourselves do not support conditions of that sort but this particular application provides no information enabling the LA (let alone Responsible Authorities or Interested Parties) to assess the need for such a condition in the particular case.

Paragraph 5.3 connects that concern to the question of whether "*the requirement for conditions might be determined by the operator's own risk assessment or the local area profile carried out by the licensing authority, as detailed in Part 6*" [of the GC's Guidance] (see below). In this case, there is no suggestion that the applicant has done such an assessment or is even aware of the need to do so.

Paragraph 5.4 advises the LA to consider questions raised by the location of gambling premises when (inter alia): "*receiving relevant representations to an application; dealing with applications as a responsible authority in its own right; and considering applications before it*". Therefore, the process of applying for and being granted a premises licence is not a "tick-box" exercise but one that requires real scrutiny by the applicant and LA alike (and by extension, Responsible Authorities and Interested Parties so that they may make full representations if they so desire). No such scrutiny is possible here.

Paragraph 5.9 advises LA's "*to check with local operators*" which, if any, scheme or voluntary initiative they take part in relating to "*issues such as underage access, staff safety and security*". This application provides no such detail for the applicant. Of course, as per paragraph 5.10, those issues do not relate to the operator itself but to the way the premises will be run by reference to the "local circumstances" with which the LA will be concerned. Again, proper scrutiny of and comment on the application is impossible without the information.

Objective 3: Protecting children and other vulnerable persons from being harmed or exploited by gambling - Paragraph 5.13 advises LA's to "*consider whether staff will be able to adequately supervise the gambling premises, as adequate staffing levels is a factor to consider regarding the prevention of underage gambling*". Once again, the applicant offers no information on this count while the plan accompanying the application provides no material information either (see further below). Less still does it feature the essential tools and layout detail that reputable operators take into account in planning their premises in terms of the Licensing Objectives.

As in other contexts, we reserve the right to expand our representations on matters of supervision and control if and when full details of the applicant's intentions are provided. Paragraph 14 sets out some of the issues that one would expect to be covered in this area.

The apparent lack of information is also relevant in the context of paragraph 5.17 regarding the specific location of 59 Week Street in relation to the presence of the sort of "vulnerable groups" mentioned there. We are surprised that the applicant has not identified or addressed the issues arising from the proximity of a number of centers for those who may need counseling for debt, gambling, poverty and behavioral issues. That the applicant should be expected to address these matters is perhaps emphasized by the undoubted over-proliferation in the immediate area of betting offices and their commensurate fixed odds betting terminals (see also local risk assessments, below).

Paragraph 5.19 - Of course, the LA is obliged to "*aim to permit gambling*" but only insofar as it thinks it is in accordance with the LCCP; the GC Guidance; and the LA's own statement of licensing principles and "*is reasonably consistent with the licensing objectives*". Once again, how can those obliged or entitled to scrutinize the application do so without a detailed explanation of the facilities proposed; the control and supervision of the premises; and the applicant's risk assessment. These are absent in this case.

Indeed, as per the GC's advice (paragraph 5.20), "*the licensing authority may not [licence the premises] ... unless satisfied that such use would be in accordance with this Guidance, any relevant Commission Code of Practice, its own statement of policy, and the Licensing Objectives*".

Paragraph 6.33 provides a further example of the way in which the GC's advice has moved on since the LA's SoLP (an advance that the LAs draft SoLP does not reflect) in drawing attention to the need to consider "*the licensing authority's local area profile and ...[e.g.]... the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children*". The LA in this case has not yet decided whether to prepare a Local Area Profile but it may well do so in which case a cautious approach to matters that it might inform is warranted, meantime. Against that background, the LA will presumably wish to be particularly vigilant in its scrutiny of the current application (see further comments re paragraphs 6.47 - 6.53, below).

Paragraph 6.38 draws attention to the possibility or advisability of imposing conditions on any licence granted – again, without far more information in support of the application, how can the need for such conditions be assessed?

Paragraphs 6.41 – 6.46 deal with Local Risk Assessments, a new concept postdating the LA's own current and draft Statement of Licensing Principles. Despite the fact that the new provisions will not be mandatory until April 2016, the LA will surely want to call on current applicants to provide such an assessment as a matter of good practice. The provisions warrant setting out and speak for themselves: -

"Social responsibility code provision 10.1.1 - Assessing local risk

All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary Licensees must assess the local risks to the Licensing Objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.

Licensees must in any case, undertake a local risk assessment when applying for a new premises licence.

Ordinary code provision 10.1.2 - Sharing local risk assessments

All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.

Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request."

Part 7 of the GC's Guidance deals specifically with Premises Licences with paragraph 7.5 referring to the "Meaning of Premises". In this regard, the application is misleading or obtuse in failing to describe the premises only by reference to the ground floor. The plan discloses both a first floor and basement (are there further upper floors?) but no detail is given. The application should therefore be rejected so that the meaning of the premises can be clarified. A fresh application properly identifying what is to be used for gambling could then be properly scrutinized and evaluated. The relevance of the issue is obvious: what facilities are planned (and where will they be) and how will supervision and control be effected?

Paragraph 7.28 draws attention to the risk that *"Products made available for use in gambling premises will often contain imagery that might be of particular appeal to children or young people. For example, cartoon imagery that is ubiquitous on gaming machine livery. Where any such product is sited on age- restricted premises or in the age-restricted area of premises (and in particular, if sited close to the entrance or threshold and therefore visible to children or young people), Licensees should consider whether it might risk inviting under 18s to enter the restricted area".* The applicant has not mentioned what products or related imagery may be provided, let alone addressed the

risks that the GC has highlighted. A condition addressing that risk might, for instance, be appropriate – we simply do not know.

Paragraph 7.29 raises the risk that operators may not *“ensure that their policies and procedures for preventing underage gambling take account of the structure and layout of their gambling premises. This therefore requires Licensees not only to be able to supervise their premises but also that they should mitigate the risks of under 18s being attracted to enter premises by the products available within them”*. This risk has particular relevance to 59 Week Street with its secondary, remote access from Fremlin Way and the uncertainty as to what is proposed for the basement and upper floors.

Paragraphs 7.44, 7.46 and 7.60 relate to the detail provided on plans. In this case the plan shows no material detail beyond a delineation of the ground floor. Per paragraph 7.44, the GC disparages the use of plans *“of the premises... only contain[ing] an outline of the licensed premises and the exit points without, for example, the location of the gaming machines and counter”*. It goes on to advise (paragraph 7.46): *“The Regulation states (other than in respect of a track) ‘...the plan must show the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence’. However licensing authorities may consider that this minimum requirement is not sufficient to satisfy them when determining if the application is in accordance with s.153 principles, namely the licensing objectives, this Guidance and the Commissions’ codes of practice – in particular the social responsibility codes – and the licensing authorities’ own statement of policy. If the application and accompanying plan are insufficient, the licensing authority should ask for more information from the applicant”*.

In this case, it is not just the plan that is deficient – the entire application is unspecific to the point of being misleading. It will not therefore be enough to ask for more information. In our submission, the application should be refused or rejected so that if it is then resubmitted with the appropriate level of detail, the LA, Responsible Authorities and Interested Parties may properly evaluate and comment on it. Indeed, paragraph 7.60 supports the wider point that the interests of natural justice dictate that those commenting or having the right to comment on an application must have access to all the facts and have full opportunity to consider them before being expected to frame their representations. Inter alia, a failure to recognize that principle would leave any decision to grant the application open to judicial review.

For completeness, paragraphs 7.52 to 7.55 deal with “Representations”. As explained at the beginning of this representation, Cashino Gaming Limited is unquestionably an Interested Party (applying the criteria set out in paragraph 8.15). Accordingly, this representation is required to be considered by the LA as “admissible”. It is clearly “relevant” because it concerns the application of the licensing objectives but it is neither “frivolous” nor “vexatious”. We have no history of making “irrelevant” representations; this representation raises numerous relevant and important issues; and those issues relate to the specific premises in question.

Finally, we note that the premises are owned by Godden Nine LLP and charged to West One Loan Limited. The applicant has produced no evidence of its right to occupy the premises (including the consent of the charge). A right to occupy is a legal pre-requisite to the grant of a premises licence (S 159(5)).

For the reason set out above, we invite the refusal of the application so that, if the applicant wishes to pursue its development, it can reapply presenting a clear and full description of what it involves and specifically addressing the issues to which the GC's Guidance draws attention.

While we do not believe such a course would be lawful (and we must therefore reserve our position should the LA adopt it), an alternative to refusal would be for the application to be suspended while a full supporting statement is supplied. The application would clearly need to be re-advertised and all information made available to Responsible Authorities and potentially Interested Parties on the LA's website. A full 28 day period would then be required for those interested to assimilate and comment on the application, as supplemented by the additional information.

We look forward to hearing from you.

Yours faithfully,



Byron Evans
Commercial Director

DD : 0845 521 5049
Mob : +44 (0)7970 148003
Email : byronevans@praesepeplc.com