

## APPENDIX K

**From:** David H Biesterfield [dbiesterfield@btinternet.com]  
**Sent:** 08 December 2015 12:46  
**To:** Lorraine Neale  
**Cc:** Robin Harris  
**Subject:** Re: Palace Amusements – Application for an Adult Gaming Centre

Dear Ms Neale,

I refer to your letter of 25.11.15 & also to my email reply of today's date to your colleague Robin Harris' letter of the same date. I suggest both my responses be read together as they overlap.

In reply to your question, the manner in which my client's business would be affected for the purposes of S158 of the Act was explained in the first paragraph & at the bottom of the first page of the representation but to expand on that issue it is to be noted that the test of "business interests that might be affected by authorised activities" does not exclude those of businesses with which new, proposed premises will compete (see also para 426 off the Explanatory Notes to the Act). Indeed, paras 8.14 & 8.15 of the GC's Guidance are, in effect, explicit that ownership of a business like that of my client in Week Street will make that owner an Interested Party.

As my client's representation makes clear, its objection is not based on demand but on the principle that competitors should not be entitled to a license unless the process & any decision leading to its grant satisfies the statutory & regulatory requirements of the overall scheme as I describe them in my email of today's date to Mr Harris.

In short, my client operates an AGC at 74 Week Street (as is well known to the licensing authority); those premises serve substantially the same catchment as would the premises to which the application applies & so the two sets of premises would be in direct competition (given their proximity, it would be inconceivable that the two AGC's would not directly compete); based on my client's substantial commercial experience, the additional competition that the new proposed premises would represent, would serve to substantially reduce the level of business attracted by my client's premises &, accordingly, the profits of my client's business (the extent will be fully assessable only after the event, should the new application succeed).

That explains the perfectly proper motivation for my client's representation (i.e. it cannot be said to be vexatious or frivolous). The reason why the licensing authority should accept it & apply the approach that it suggests is because the substance of the representation is directed at & relevant to the Licensing Objectives & the licensing authority's duty as set out in S153 of the Act.

I hope that answers your specific question & look forward to hearing further from you regarding the hearing anticipated by your letter.

Yours sincerely,

David Biesterfield

## **Consultant to Cashino Gaming Limited**

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