

## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Public Protection Manager

**To:** Panel of the Committee of the Licensing Authority- Tuesday, 30 November 2021

**(Author:** Heather Lawson - Licensing Officer)

**Subject** Gambling Act 2005

**Purpose:** To consider an application for a new Bingo Premises Licence under the Gambling Act 2005 for Merkur Slots, 32-33 Hall Place, Spalding, Lincs, PE11 1SG

### **Recommendation(s):**

- 1) That the Panel of the Committee of the Licensing Authority determine the application for a new Bingo Premises Licence under the Gambling Act 2005 for Merkur Slots, 32-33 Hall Place, Spalding, Lincs, PE11 1SG

### **1.0 BACKGROUND**

1.1 Under Section 150 (1)(b) of the Gambling Act 2005, a premises licence authorises premises for the use of the provision of facilities for playing bingo.

1.2 The Licensing Team on behalf of the Licensing Authority received an application on 15<sup>th</sup> July 2021 from Poppleston Allen Solicitors acting as agent for the applicant:

Merkur Slots UK Limited  
Seebeck House  
1A Seebeck Place  
Knowlhill  
Milton Keynes, MK5 8FR

For a new Bingo Premises licence in respect of:  
Merkur Slots,  
32-33 Hall Place,  
Spalding, Lincs, PE11 1SG.

1.3 A copy of the application form and supporting documents submitted by the applicant, including a local area risk assessment can be found at **Appendices 1-9**.

1.4 All required documents were provided with the application and the application was correctly served on all responsible authorities. In accordance with the legislation, notice of the application was sent to the responsible authorities being:

The Gambling Commission  
Lincolnshire Police  
Lincolnshire Trading Standards

Lincolnshire Fire and Rescue  
Lincolnshire Safeguarding children's Board  
Planning Department  
Environmental Health  
H M Revenue & Customs

- 1.5 The application, at **Appendix 1**, requests the licence be granted for the default hours of a bingo premises. This applies to bingo facilities in bingo premises which may not be offered between the hours of midnight and 9am. The applicant has not volunteered conditions proposing a particular closing time within the application.
- 1.6 Merkur Slots UK Limited have described the company as operating 'a national estate of licensed bingo premises which include the provision of bingo tablets and Bingo Plus and Bingo Express terminals. Substantive facilities for non-remote bingo will be made available in accordance with the legislative provisions'.
- 1.7 Within the application a plan proposing the layout of the premises can be found at **Appendix 4**. This shows a layout of bingo tablets and bingo terminals.
- 1.8 It should be noted that the default conditions state that there are no restrictions on access to gaming machines in bingo premises.
- 1.9 The application was advertised in accordance with the standard procedures required by the Gambling Act 2005 and consulted for the required 28-day consultation period.
- 1.10 The applicant has proposed additional conditions to be attached to the licence should it be granted. These are detailed in Part 5 of the application form (which is attached in **Appendix 1**).
- 1.11 **Operating Licence**
- 1.12 A premises licence may not take effect unless the applicant is in possession of an operating licence issued by the Gambling Commission.
- 1.13 The applicant Merkur Slots UK Limited holds an Operating Licence issued by the Gambling Commission to provide bingo facilities. (003266-N-103444)
- 1.14 **Representations**
- 1.15 The effect of Section 162 (1) of the Act states that where relevant representations are made and not withdrawn, the Licensing Authority must hold a hearing to determine the application, unless all are agreed that such a hearing is unnecessary.
- 1.16 The effect of Section 162 (3) of the Act states that relevant representations are those that relate to the effect of the granting of the application on the promotion of the licensing objectives made by an interested party or responsible authority that have not been withdrawn and are not, in the opinion of the relevant licencing authority, frivolous or vexatious.

### 1.17 **Responsible Authorities**

1.18 There were no representations received from Responsible Authorities.

### 1.19 **Interested Parties**

1.20 For the purpose of this Act, interested parties are a person who:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities;
- c) represents persons in either of these two groups.

1.21 There have been four representations received from interested parties. A copy of the representations can be found at **Appendix 10**.

### 1.22 **Licensing Objectives**

1.23 There are three licensing objectives (under Section 1 of the Act) which guide the way that the Commission and licensing authorities perform their functions and the way that gambling businesses carry on their activities.

1.24 When considering an application for a grant of a new premises licence, the licensing authority has a duty to pursue the licensing objectives.

1.25 The three licensing objectives are:

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is conducted in a fair and open way; and
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

### 1.26 **Mandatory and Default Licence Conditions**

1.27 The Secretary of State provides under Section 167 for mandatory conditions and Section 168 for default conditions to be attached to premises licences. A copy of the conditions can be found at **Appendix 11**.

1.28 Bingo facilities in bingo premises may not be offered between the hours of midnight and 9am. However there are not restrictions on access to gaming machines in bingo premises.

### 1.29 **Gaming Machine Limits**

1.30 Bingo premises licences are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines (but not B3A machines, as these are only made available in Member's clubs and Miner's welfare institutes). There is no limit on category C or D machines.

1.31 Machine Categories:

Category of Machine	Maximum Stake	Maximum Prize
B3	£2	£500
B4	£2	£400
C	£1	£100
D - various	Ranging from 30p to £1	Ranging from £5 to £8 and £50 for crane grab machine

1.32 **Planning**

1.33 An application to the Councils planning department for a change of use to an Adult Gaming Centre was refused in September 2021 an appeal has subsequently been lodged. Please note that Planning and Licensing matters should be treated as completely separate regimes, as per Section 210 of the Gambling Act 2005.

1.34 In making a decision in respect of an application under this Part a licensing authority shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building. A decision by a licensing authority under this Part shall not constrain any later decision by the authority under the law relating to planning or building.

1.35 **Principles to be Applied**

1.36 Section.153 of the Act provides that, in exercising its functions under Part 8 of the Act, a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it-

- 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)
- d) in accordance with the licensing authority's statement of licensing policy (policy statement) (subject to a to c above).

1.37 South Holland District Council's Policy (Statement of Principles) Gambling Act 2005, Part B states the principles to be applied within the decision-making process when considering an application.

1.38 The Gambling Commission's Guidance to Licensing Authorities states the following:

1.39 **At paragraph 5.20** Whilst there is a presumption in favour of permitting the relevant premises to be used for gambling, the licensing authority may not do so unless satisfied that such use would be in accordance with this guidance, any relevant Commission code of practice, its own statement of licensing policy, and the licensing objectives.

1.40 **At paragraph 5.21** In the unlikely event that a licensing authority perceives a conflict between a provision of a Commission code of practice or this guidance, and its own policy

statement or view as to the application of the licensing objectives, the structure of s.153 makes it clear that the Commission's codes and this guidance take precedence.

1.41 **At paragraph 5.22** In determining applications for premises licences, the Act 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 that are the subject of the application
- s.210 (1) of the Act states that 'in making a decision in respect of an application...a licensing authority should 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'.

## 2.0 OPTIONS

2.1 The Members of the Panel of the Committee of the Licensing Authority must consider the application on its own merits, representations made and any evidence and submissions made at the hearing and take such of the following steps as it considers necessary with a view to promoting the licensing objectives and in accordance with the principles.

2.2 In making its decision, Members of the Panel are asked to consider the application in line with the following:

- The Gambling Act 2005
- The Gambling Commission's Licence Conditions and Codes of Practice
- The Gambling Commission's Guidance to Licensing Authorities
- South Holland District Council Policy (Statement of Principles) – Gambling Act 2005

2.3 The Panel of the Committee of the Licensing Authority, as they consider it appropriate and in accordance with Section 163 of the Gambling Act, on considering an application for a premises licence (whether at a hearing or not) shall –

- a) Grant the application
- b) Grant the application and attach conditions (provided these do not contravene S169(4) of the Act)
- c) Grant the application and exclude any default conditions (that would otherwise be applied by virtue of S168 of the Act).
- d) Reject the application

2.4 Conditions attached to a bingo premises licence by the licensing authority may address matters dealt with by excluded default conditions and may apply to the premises generally or only in relation to a specified part of the premises.

2.5 Section 169 (4) of the Act provides that; A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence authorising the holder to carry out the activity in respect of which the premises licence is granted.

## 3.0 IMPLICATIONS

### 3.1 Constitutional & Legal

- 3.1.1 Where a licensing authority grants or rejects an application for a premises licence, notice of the decision must be given as soon as is reasonably practicable to –
- The applicant
  - The Gambling Commission
  - Any person who made representations about the application
  - The Chief Officer of Police for the area
  - Her Majesty's Commissioners of Customs and Excise
- 3.1.2 If the application is granted, the notice –
- (a) must be in the prescribed form,
  - (b) if the licensing authority have attached a condition to the licence under s 169(1)(a) or excluded under s 169(1)(b) a condition that would otherwise have attached by virtue of s 168, must give the authority's reasons, and
  - (c) if representations were made about the application under s 161, must give the authority's response to the representations.
- 3.1.3 If the application is rejected, the notice –
- (a) must be in the prescribed form, and
  - (b) must give the authority's reasons for rejecting the application
- 3.1.4 Where a licensing authority rejects an application for a premises licence, the applicant may appeal.
- 3.1.5 Where a licensing authority grants an application for a premises licence either of the following may appeal –
- a) A person who made representations in relation to the application
  - b) The applicant
- 3.1.6 Appeals must be instituted in the Magistrates Court for the area within 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought.
- 3.2 **Crime and Disorder**
- 3.2.1 The licensing objectives include; Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, which must be considered when determining an application for a premises licence.
- 3.2.2 Lincolnshire Police have not made a representation in respect of the application.
- 3.3 **Equality and Diversity / Human Rights**
- 3.3.1 Any decision taken will be in accordance with the Gambling Act 2005.
- 3.3.2 Human Rights Act 1998
- Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest
- Article 6 – right to a fair hearing
- Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life
- Article 10 – right to freedom of expression.

### 3.4 **Safeguarding**

3.4.1 The Statement of Principles sets out the approach of the licensing authority in respect of safeguarding, when considering applications.

### 4.0 **WARDS/COMMUNITIES AFFECTED**

4.1 ALL

### 5.0 **ACRONYMS**

5.1 The Act – The Gambling Act 2005

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Background papers:-

Gambling Act 2005 <https://www.legislation.gov.uk/ukpga/2005/19/contents>

Gambling Commissions – Licence Conditions and Codes of Practice  
<https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp>

Gambling Commissions – Guidance to Licensing Authorities  
<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

South Holland District Council Policy (Statement of Principles) Gambling Act 2005  
[https://www.sholland.gov.uk/media/19547/SHDC-Gambling-Policy-2019/pdf/SHDC\\_Gambling\\_Policy\\_2019.pdf?m=637680918110970000](https://www.sholland.gov.uk/media/19547/SHDC-Gambling-Policy-2019/pdf/SHDC_Gambling_Policy_2019.pdf?m=637680918110970000)

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#### **Lead Contact Officer**

Name and Post: Heather Lawson Licensing Officer  
Telephone Number 01776 764509  
Email: Heather.Lawson@sholland.gov.uk

**Key Decision:** N

**Exempt Decision:** N

**This report refers to a Mandatory Service**

#### **Appendices attached to this report:**

Appendix 1	Application
Appendix 2	Letter to LA
Appendix 3	Local Area Risk Assessment
Appendix 4	Proposed Machine Plan
Appendix 5	Licensed Area Plan
Appendix 6	Operational Standards
Appendix 7	Service of Documents

Appendix 8  
Appendix 9  
Appendix 10  
Appendix 11

Working Together Document  
Notice of Application  
Representations  
Bingo Premises Licence Conditions - Mandatory and Default