



Licensing & Out of Hours Compliance Team - Representation

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Premise Details

Application Ref No	M/255244
Name of Premises	TBC (application by TRAFALGAR LEISURE)
Address	33-35 Piccadilly , M1 1LQ

Representation

Outline your representation regarding the above application below. This representation should describe the likely effect of the grant of the licence/certificate on the licensing objectives and on the vicinity of the premises.

The Licensing and Out of Hours (LOOH) team have assessed the likely impact of the grant of this application taking into account a number of factors, including the nature of the area in which the premises is located and any potential risk the granting of this licence could lead to undermining the licensing objectives.

Officers are not satisfied that the conditions offered are sufficient to uphold the licensing objectives. LOOH therefore recommend the following conditions should be attached to the Premises licence (this includes rewritten offered conditions to make them clear and enforceable)

1. The premises shall install and maintain a digital colour CCTV system which shall cover all public areas where licensable activities may be provided and all public entry and exit points. CCTV shall record whilst the premises are open to the public. All recordings shall be kept available and unedited for a minimum of 28 days with the date and time stamping.
2. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce / download / burn CCTV images upon request by a police officer or an authorised officer of the licensing authority. Any footage must be in a format so it can be played back on a standard personal computer or standard DVD player. Where the recording is on a removable medium (i.e. compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.

3. The premises shall display prominent signage indicating that the Challenge 25 scheme is in operation. Notices advising what forms of ID are acceptable must be displayed.
4. Staff shall be provided with comprehensive training in interactions/interventions with customers who appear to have a gambling problem and in refusing entry to any person that is intoxicated or under the influence of drugs. Staff will also receive training and guidance on policy and procedures that are applicable to customers who may gamble beyond their means.
5. Staff shall be provided with comprehensive training around the Self Exclusion Policy; Challenge 25 policy and its operation; Emergency procedures, Specific issues relating to the local area; Compliance with the licence conditions and obligations and offences under the Gambling Act.
6. Documented records of training completed shall be kept for each member of staff. Training shall be regularly refreshed and at no greater than 12 monthly intervals. Training records shall be made available for inspection upon request by a police officer or an authorised officer of Manchester City Council
7. SIA registered door staff shall be employed at the premises in accordance with a risk assessment. When employed, door staff will wear high visibility armbands and a register of those door staff employed shall be maintained at the premises and shall include:
 - i. the name, date of birth and residential address of that person.
 - ii. the time at which he / she commenced that period of duty with a signed acknowledgement by that person.
 - iii. the time at which he / she finished the period of duty with a signed acknowledgement by that person.
 - iv. any times during the period of duty when he / she was not on duty.
 - v. If that person is not an employee of the Licensee or his / her employer, the name of the person by whom that security person is employed

8. An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to the police or an authorised officer of the licensing authority, which will record the following incidents including pertinent details:
- a. No. of interventions in a calendar month along with a short description of the cause and effect
 - b. No. of cases in a calendar month where persons who have decided to voluntarily exclude themselves from the premises have tried to gain entry
 - c. No. of mandatory exclusions needing enforcement in a calendar month along with a short description of the cause and effect.
 - d. Attempts to enter by those underage in a calendar month along with short description of incident and action
 - e. Attempts to enter by those underage in the company of adults in a calendar month along with short description of incident and action
 - f. Attempts to enter by those underage with complicit adults in a calendar month along with short description of incident and action
 - g. Staff interventions with customers concerning potential problem gambling in a calendar month along with short description of incident and action
 - h. Refusals of entry to the premises along with a short description of incident and action.
 - i. Incidents of behaviour requiring immediate police assistance along with short description of incident and action.
 - j. Suspicious financial behaviour
 - k. Any faults in the CCTV system

Any incidents recorded in this log must also record the date and time the incident occurred.

LOOH believe these conditions are proportionate and necessary to uphold the licensing objectives.

Recommendation: **Approve with Conditions (Outlined Above)**

From: Fraser Swift [REDACTED] >
Sent: 22 February 2021 17:29
To: Premises Licensing <Premises.Licensing@manchester.gov.uk>
Subject: Re: Premises Licence - New, Bingo: 7PA255244, TBC, 33-35 Piccadilly, Manchester, M1 1LQ (Piccadilly)

Please find attached representation

I am submitting this representation in my capacity as the Licensing Authority Responsible Authority.

A local Licensing Authority is required to carry out its function – including considering applications for Premises Licences – to have regard to any code of practice under Section 24 and any guidance document under section 25 issued by the Gambling Commission (GLA), including the provisions of that code and the principles contained in that guidance.

In exercising its functions under the Act, s.153 states that the licensing authority shall aim to permit the use of premises for gambling in so far as it thinks 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).

Re (b) above, the Commission has the power to issue two types of code of practice. The first is a social responsibility (SR) code. A SR code must be followed and has the force of a licence condition. The Commission may also issue ordinary codes (OC) which are intended to set out best industry practice. They are not mandatory but operators are expected to follow them unless they have alternative arrangements in place that they can demonstrate are equally effective.

In considering this application, I have regard to the Codes of practice, in particular

Social responsibility code provision

9.1.2 Gaming machines in gambling premises – bingo

All non-remote bingo operating licences

1 Gaming machines may be made available for use in licensed bingo premises only where there are also substantive facilities for non-remote bingo, provided in reliance on this licence, available in the premises.

2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.

3 Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing bingo facilities.

Taking the Guidance, LCCP, the Council's Policy and the information provided in the application into account, it is submitted that given the lack of detail provided in relation to how the premises will specifically operate does not provide the authority with the **ability to accurately assess the risks posed by the proposed operation, and so licensing the premises would be inconsistent with the requirements of s153 of the Gambling Act**. The reasons for these concerns are set out below:

[Lack of details about the business including method and style of operation, appearance and layout, management and staffing](#)

The Gambling Commission's Guidance to Licensing Authorities advises that:

In carrying out their functions under the Act licensing authorities should satisfy themselves that a premises applying for or licensed for bingo is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premises licensed for the purposes of providing facilities for bingo.

18.28 Licensing authorities are not being asked to impose a 'one size fits all' view of how a bingo premises should look and function. Rather they are ensuring that a premises licensed for the purposes of providing facilities for bingo is operating as such and is not merely a vehicle to offer higher stake and prize gaming machines. (GLA 18.28)

18.29 In exercising its functions under the Act a licensing authority should take account of the relevant code of practice on 'controlling where gaming machines may be played'. It is specifically obliged to do so when exercising functions under section 153 of the Act. (GLA 18.29)

Within bingo premises, gaming machines are only to be made available in combination with bingo activity. 'In combination with' does not mean at all times but it is important to understand the actual likely provision of gambling facilities at the premises both in relation to how bingo will be provided e.g. style of play, frequency of games; and gaming machines.

Category B gaming machines are restricted to an environment and 'atmosphere' (to use the word in the First-Tier Tribunal in *Luxuys Leisure v Gambling Commission*) deemed appropriate for that form of gambling both signals and controls the risks to the licensing objectives associated with gaming machines.

Maintaining distinctions between different gambling venues allows individuals to make a deliberate choice whether to enter that particular gambling environment (GLA 18.27)

There is no information provided on how this premises will operate and so it is submitted that we cannot be satisfied that the **"premises applying for or licensed for bingo is operating or will operate in a manner which a customer would reasonably be expected to recognise as a**

premises licensed for the purposes of providing facilities for bingo” and the premises licensed in accordance with the Guidance and SR code 9.1.2 referenced above.

Gaming machines

s172(7), as amended, of the Gambling Act 2005 provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises, and no restriction on the number of category C or D machines. Regulations state that category B machines at bingo premises are restricted to sub-category B3 (SI 2007/2158: Categories of Gaming Machine Regulations 2007) (but not B3A) and B4 machines.

Category ‘B’ gaming machines can be categorised as ‘harder’ forms of gambling due to the combination of higher staking and event frequency. This is why they are confined to venues for which consumers attend for the purpose of gambling or for whom the prospect of such gambling facilities being available can reasonably be expected.

Equipment operated by a bingo operating licence for the purpose of playing bingo, for example what are currently known as mechanised cash bingo, electronic bingo terminal (EBTs) and video bingo terminals (VBTs), will be exempt from controls on gaming machines provided they comply with any conditions set by the Commission and, in the case of EBTs, do not hold gaming machine content. (GLA 18.10)

An EBT that offers gaming machine content in addition to bingo content is considered to be a gaming machine and would count towards the total number of gaming machines or towards the offering of bingo. Any EBTs that do not offer gaming machine content would not count towards the number of gaming machines. GLA (18.11)

Therefore, it is essential to know the degree of gaming machine provision, as this has a direct correlation with the number of ‘harder’ gaming machines that can be provided in this premises, which in turn, has an impact on the risks posed to the licensing objectives.

Supervision

For operators to effectively minimise the risk to the licensing objectives their gambling premises pose, appropriate supervision of the gambling facilities is central.

Without appropriate supervision, operators would be unable, for instance, to prevent underage access, identify and act upon indicators of harm or prevent their facilities being used for or in connection with crime.

To contain the unavoidable risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised. (GLA 18.26)

The use of the word ‘appropriately’ recognises that the arrangements for supervision will differ depending on factors including, but not limited to, the size, layout and profile of premises,

business levels and the manner in which facilities are offered; for instance anonymously or through membership/account-based play, as well as the location on gambling facilities provided.

The risk assessment provided does not provide any detail in relation to how these matters will be specifically addressed at the premises. There is a suggestion that they will take a “risk-based” approach, for example, in relation to monitoring entrances by staff or security to ensure no persons under 18 years of age enters the premises (Page 3 – Statement of Compliance with the Licensing Objectives) However, there is no evidence of what risk assessment will be undertaken and so it is not possible to be satisfied that this approach would be sufficient.

There is an exemption from the PSIA licensing requirement for in-house employees working as door supervisors at casino and bingo premises. S.178 defines door supervision as requiring someone to be responsible for ‘guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage’. However, it is not clear from the risk assessment, the extent to which security personnel will be provided and whether these will be SIA licensed persons.

Section 4.4. of the Council’s Gambling Policy/Statement of Principles states:

Staff to customer ratio

All premises will be expected to demonstrate that they will have in place a suitable staff to customer ratio as appropriate to the premises.

To ensure the safety of both customers and staff, sufficient staffing numbers should be in place at all times the premises is open. A suitable ratio should take into account the protection of staff and customers with respect to the crime and disorder objective as well as the objective of protecting children and other vulnerable persons from being harmed or exploited by gambling.

Location and vulnerable persons

The third licensing objective seeks to protect children from being harmed or exploited by gambling and premises should be configured so that children are prohibited from participating in gambling, such that they are not invited to participate in, have accidental access to, or closely observe gambling. Therefore, the outward appearance and setup will be an important consideration, particularly given the location and high number of young people who pass and frequent Piccadilly.

There are a number of existing gambling premises in close proximity to the proposed premises, notably Admiral Casino – an adult gaming centre’ situated next door but one. This matter is not addressed in the application’s risk assessment. Again, depending on the nature of gambling facilities to be provided, it will be appropriate to consider the interplay between the businesses in this location and potential impact on the licensing objectives.

Relevant to these concerns, I would request the following information to be submitted:

1. Vulnerable Groups

What assessment there has been in respect of 'vulnerable persons and groups' locally.

The risk assessment references Piccadilly Gardens to be frequented by drug users. However, there is no reference to drug dealing which, unfortunately, has been experienced in the area. There is the potential to impact the first licensing objective and so I would submit that this should be addressed in the risk assessment.

2. Please set out what facilities will be provided for non-remote bingo and machine-based gambling

3. Appearance and ability to observe gaming from outside

Please could you provide more information on how the premises will function along with the internal and/or external presentation of the premises, including how they are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing bingo facilities. Please also provide details of what branding and external advertisements and promotions that it is intended to have in place at this site.

4. Re-admittance following self-exclusion

Please could you provide information on the procedure for how customers will be re-admitted following any exclusion.

5. Staffing levels

Could you provide more details in respect of this i.e. what periods, and also with respect to the number of machines, particularly with respect to staff's ability to effectively monitor gaming activity. Also, how will staff be deployed within the venue, including security staff.

6. Gaming provision on site

Please could you provide some more information of what gaming facilities will be available on site and how these will be managed.

Regulatory background

1.19 (GLA) The Act places a legal duty on both the Commission and licensing authorities to aim to permit gambling, in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives. The effect of this duty is that both the Commission and licensing authorities must approach their functions in a way that seeks to regulate gambling by using their powers, for example, powers to attach conditions to licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.

The three licensing objectives (s.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, 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

The Commission and licensing authorities have a duty to pursue the licensing objectives, and we expect gambling business to deliver them. (1.21 GLA)

Aim to permit principle and ability to request further details

1.26 The 'aim to permit' framework provides wide scope for licensing authorities to impose conditions on a premises licence, reject, review or revoke premises licences where there is an inherent conflict with the relevant codes of practice, relevant guidance issued by the Commission, the licensing objectives or the licensing authorities own policy statement.

1.29 To reflect the breadth of licensing authority discretion, they are entitled to request such information from operators as they may require to make effective licensing decisions. The Act requires that an application must be accompanied by a minimum level of information (detailed in [Part 7](#) of this guidance). In the Commission's view, however, this does not preclude reasonable requests from licensing authorities for additional information to satisfy themselves that their licensing decision is reasonably consistent with the licensing objectives and the Commission's codes. That information may include, for example, a suitable business plan or the operator's own assessment of risk to the licensing objectives locally.

5.31 Licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions. In determining applications for premises licences and permits, a licensing authority may request as much information as it requires to satisfy itself that all the requirements set out at s.153 of the Act are met.

Policy

The policy statement is the primary vehicle for setting out the licensing authority's approach to regulation having taken into account local circumstances. It ensures that operators have

sufficient awareness and understanding of the relevant licensing authority's requirements and approach, including its' view on local risks, to help them comply with local gambling regulation.

Licence conditions (General)

- s.169(4) prohibits a licensing authority from imposing a condition on a premises licence which makes it impossible to comply with an operating licence condition
- s.172(10) provides that conditions may not relate to gaming machine categories, numbers, or method of operation
- s.170 provides that membership of a club or body cannot be required by attaching a condition to a premises licence (the Act specifically removed the membership requirement for casino and bingo clubs and this provision prevents it being reinstated)
- s.171 prevents a licensing authority imposing conditions in relation to stakes, fees, winnings or prizes.

Bingo premises licence conditions

Mandatory conditions

18.18 A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.

18.19 No customer shall be able to enter bingo premises directly from a casino, an adult gaming centre or betting premises (other than a track).

18.20 Over 18 areas, within bingo halls that admit under-18s, must be separated by a barrier with prominently displayed notices stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young people are not able to access these areas or the category B or C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.

18.21 Any admission charges, the charges for playing bingo games and the rules of bingo must be displayed in a prominent position on the premises. Rules can be displayed on a sign, by making available leaflets or other written material containing the rules, or running an audio-visual guide to the rules prior to any bingo game being commenced.

18.22 Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

Default conditions

18.23 Bingo facilities in bingo premises may not be offered between the hours of midnight and 9am. However, there are no restrictions on access to gaming machines in bingo premises.