



**The Gambling Act 2005 (Proceedings of Licensing
Committees and Sub-committees) (Premises Licences and
Provisional Statements) (England and Wales) Regulations
2007**

Report to: Licensing Sub-Committee Hearing Panel – 15 March 2021

Subject: Name TBC, 33-35 Piccadilly, Manchester, M1 1LQ, App Ref:255244

Report of: Director of Planning, Building Control and Licensing

Summary

Application for the grant of a new premises licence made under the Gambling Act 2005, which has attracted objections.

Recommendations

That the Panel determine the application.

Wards Affected: Piccadilly

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Background documents (available for public inspection):

Manchester City Council statement of Gambling Policy 2019 – 2021
The Gambling Act 2005

1. **Introduction**

- 1.1. On 26 January 2021, an application for the grant of a Premises Licence under the Gambling Act 2005 was made in respect of, 33-35 Piccadilly, Manchester, M1 1LQ in the Piccadilly ward of Manchester.
- 1.2. A 28-day public consultation exercise was undertaken in accordance with Gambling act 2005 regulations; requiring the application to be advertised by the displaying of a notice at or on the premises and a notice published in a newspaper or similar circulating in the local area
- 1.3. Where an application is made to a licensing authority for a premises licence, an interested party or responsible authority in relation to the premises may make representations in writing to the licensing authority.
- 1.4. Relevant representations have been received in respect of this application and so it must be determined by a Licensing Hearing Panel in accordance with the Council's Constitution.

2. **The Application**

- 2.1. A copy of the application is attached at **Appendix 1**
- 2.2. The applicant is Trafalgar Leisure Ltd
- 2.3. The activity applied for is Bingo
- 2.4. The applicant has provided a statement of compliance with the licensing objectives, along with a risk assessment, which is attached at **Appendix 2**
- 2.5. A location map of the premises is attached at **Appendix 3**

3. **Relevant Representations**

- 3.1. A total of 2 relevant representations were received in respect of the application (**Appendix 4**).
- 3.2. Representation were received from the following:
 - MCC Licensing and Out of Hours Compliance Team
 - The Licensing Authority
- 3.3. Summary of the representations

Below is a summary of representations received only. Copies of the representations are included for members and other interested parties, to refer to as necessary, at Appendix 4.

Party	Grounds of representation	Recommends
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Licensing and Out of Hours Compliance (LOOH)	LOOH objected to the application based on the grounds that the proposed conditions, as provided by the applicant, will not uphold the licensing objectives. LOOH have put forward conditions which they state will be enforceable.	Grant with conditions
Licensing Authority (LA)	The LA has objected to the application based on the grounds that the application has a lack of detail in relation to how the premises will specifically operate. The LA further states that the application does not provide the LA 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.	recommendation not stated

3.4. Agreements have not been reached between the parties

4. **Key Policies and Considerations**

- 4.1. In exercising their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives in relation to premises licences, temporary use notices and certain permits.
- 4.2. Those objectives are:
- a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - b) ensuring that gambling is conducted in a fair and open way
 - c) protecting children and other vulnerable persons from being harmed or exploited by gambling
- 4.3 Section 153 of the Act provides that in exercising its functions under Part 8 of the Act (premises licensing and provisional statements), the Licensing Authority shall aim to permit the use of premises for gambling in so far as it thinks that to do so is:
- a) in accordance with relevant codes of practice issued by the Gambling Commission
 - b) in accordance with guidance issued by the Commission
 - c) reasonably consistent with the licensing objectives (subject to (a) and (b) above), and
 - d) in accordance with the Licensing Authority Statement of Policy published by the authority (subject to (a) to (c) above).
- 4.4 Section 153 applies to a licensing authority's relevant functions under Part 8 of the Act (ie applications for the grant, variation, transfer, reinstatement or review of premises licences and provisional

statements). Its effect is that, whilst in such circumstances 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 the guidance issued by the Gambling Commission, any relevant Commission code of practice and its own statement of licensing policy as well as reasonably consistent with the licensing objectives.

- 4.5 In reaching a view that the grant of a licence is in accordance with such guidance, code of practice or policy statement, a licensing authority is, in common with all such public authority decision makers, under a duty to act fairly and rationally.
- 4.6 In cases where an authority is concerned whether a grant would be in accordance with, for example, the Guidance issued by the Gambling Commission, this can be resolved by the imposition of appropriate licence conditions.
- 4.7 In the unlikely event that a licensing authority perceives a conflict between a provision of a Commission code of practice or the Guidance issued by the Gambling Commission and its own policy statement or view as to the application of the licensing objectives the structure of section 153 makes it plain that the Commission's codes and Guidance take precedence.
- 4.8 Section 153 also makes it clear that in deciding whether 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.
- 4.9 All licensing determinations should be considered on the individual merits of the application.
- 4.10 The Panel's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.
- 4.11 It is important that a licensing authority should give comprehensive reasons for their decision in anticipation of any appeals.
- 4.12 Failure to give adequate reasons could itself give rise to grounds for an appeal.
- 4.13 **Manchester Statement of Gambling Policy**
- 4.14 The Licensing Authority is required to take into account the following when taking decisions in respect of premises licences:
 - a) Relevant Gambling Commission Codes of Practice
 - b) Relevant Gambling Commission Guidance
 - c) Reasonable consistency with the Licensing Objectives (subject to a and b)
 - d) Our gambling policy (subject to a – c)

It is important for us to have clear guidelines as to how we will make

decisions about premises licence applications. In this way we can be consistent and ensure the committee have clear reasons for decisions taken. Each application for a premises licence will be considered on its merits; applicants are expected to show how they will address the licensing objectives, in order to be granted a licence. Where applicants fail to demonstrate this, licence conditions can be imposed or the application rejected.

- 4.15 The location of gambling premises The location of gambling premises will be considered when determining whether the location of proposed gambling premises is acceptable (with or without conditions) in light of the licensing objectives. Relevant considerations to the location of the premises will be set out in the local area profile but applicants are not restricted to those matters and it is proper that they address all matters they consider appropriate for the licensing objectives. They may also wish to liaise with the responsible authorities, local residents, councillors and businesses in considering whether any additional matters may be relevant. The Licensing Authority will not have regard to demand in assessing the suitability of location for gambling premises.
- 4.16 We will expect operators to take account of the risk factors identified in the local area profile but also to undertake their own assessment into the local area as circumstances can change over time. Operators should identify the relevant risks and put in place appropriate safeguards relative to them. Equally, risk assessments for existing premises should take into account previous experience of operating and react accordingly. In any case, the local risk assessment should demonstrate how vulnerable people shall be protected. We will expect risk assessments to also consider local levels of:
- Deprivation
 - Crime and disorder
 - Demographics in relation to vulnerable groups
 - The location of services for children such as schools, leisure centres, entertainment venues, and other areas where children will gather and any regular/seasonal variations e.g weekends, school holidays.

Operators are encouraged to have regard to the local area risks identified in conjunction with the general considerations set out at 4.6 and specific considerations for individual premises types below to put in place appropriate safeguards for the promotion of the licensing objectives. For example, in areas of elevated risk or areas experiencing issues of crime or antisocial behaviour, a high ratio of staffing or increased security measures may be appropriate.

- 4.17 **The Panel is asked to determine the application.**