

**Manchester City Council
Report for Resolution**

Report to: Licensing Subcommittee Hearing Panel – 11 December 2023

Subject: Manchester 235, Manchester 235, 2 Watson Street, M3 4LP -
Application ref: 294635

Report of: Director of Planning, Building Control & 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: Deansgate

Manchester Strategy Outcomes	Summary of the contribution to the strategy
A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities	Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.
A highly skilled city: world class and home grown talent sustaining the city's economic success	An effective Licensing regime will enable growth in our City by supporting businesses who promote the Licensing Objectives.
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	The Licensing process provides for local residents and other interested parties to make representations in relation to licensing applications. Representations have to be directly related to the licensing objectives.

A liveable and low carbon city: a destination of choice to live, visit and work.	An effective licensing system supports and enables growth and employment in our City with neighbourhoods that provide amenities suitable to the surrounding communities.
A connected city: world class infrastructure and connectivity to drive growth	

Full details are in the body of the report, along with any implications for:

Equal Opportunities Policy
Risk Management
Legal Considerations

Financial Consequences – Revenue

None

Financial Consequences – Capital

None

Contact Officers:

Name: Fraser Swift
Position: Principal Licensing Officer
Telephone: 0161 234 1176
E-mail: fraser.swift@manchester.gov.uk

Name: Helen Howden
Position: Technical Licensing Officer
Telephone: 0161 234 4294
E-mail: premises.licensing@manchester.gov.uk

Background documents (available for public inspection):

- Manchester Statement of Principles under the Gambling Act 2005.
- The Gambling Act 2005.
- The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.
- Any further documentary submissions by any party to the hearing.

1. Introduction

- 1.1. On 18/10/2023, an application for the grant of a Premises Licence under the Gambling Act 2005 was made in respect of Manchester 235, 2 Watson Street, Manchester, M3 4LP in the Deansgate ward of Manchester. A location map and photograph of the premises is attached at Appendix 1.
- 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 in a place at which it can conveniently be read by members of the public from the exterior of the premises, and a notice published in a newspaper or similar circulating within the licensing authority's 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 within a period of 28 days beginning on the date on which the application was made to the licensing authority.
- 1.4. Representations must be 'relevant'. The only representations likely to be relevant are those that meet one or more of the following criteria:
 - a Relate to the licensing objectives
 - b Relate to relevant matters in our gambling policy
 - c Relate to relevant matters in the Gambling Commission's Guidance to Local Authorities
 - d Relate to relevant matters in the Gambling Commission's Codes of Practice
 - e Relate to the premises that are the subject of the application, and
- 1.5. 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 2.
- 2.2. The application seeks to vary the layout of licensed area. Some additional information, as provided by the applicant, is as follows:

To seek approval of an alteration detailed in the ground floor plan submitted with the application. The alteration comprises of the gambling area being extended into an area which was previously a restaurant area which has now closed.
- 2.3. The activity applied for is: variation of the existing converted casino licence.
- 2.4. The applicant has provided additional documentation as below. These documents were received after the representations were forwarded to the applicant. They are attached at **Appendix 5**:
 - Letter from applicant's representative with information about the proposed use of the amended licensed area

- Local Area Risk Assessment
- Risk grid

3. Relevant Representations

3.1. A total of 2 relevant representations were received in respect of the application attached at **Appendix 4**. The personal details of all members of the public have been redacted. Original copies of these representations will be available to the Panel at the hearing.

3.2. Representations were received from the following:

Responsible Authorities:

- Licensing Authority
- Public Health Department

3.3. Summary of the representations:

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

Party	Summary of representation	Recommends
Licensing Authority	<p>The plan submitted shows that this new area would provide 499sqm to be used for the provision of gambling. The representation refers to the machine to table ratio that is proposed to be consulted on, as referred in the Government's white paper on gambling reform.</p> <p>No detail is provided with the application about how the revised area would operate, what gaming facilities would be provided, how it would be presented, or details of any risk assessment in respect of its use.</p> <p>The premises is also opposite a major residential development. It will be important to understand any change to the dynamic to this gaming provision at this venue, particularly as a 24-hour licensed venue.</p>	Further details to be provided

<p>Public Health Department</p>	<p>The applicant has not demonstrated whether a risk assessment has been undertaken. It would be useful to see an updated risk assessment and recent incident logs for the past 6 months.</p> <p>It would be helpful to understand if a risk assessment has been undertaken to anticipate changes in drinking behaviour and gambling activity following the closure of the restaurant, where alcohol may have been ancillary to a meal.</p> <p>The NHS Northern Gambling services clinic, has recently relocated to within 800m distance from this premise. The applicant has not provided any additional information relating to potential vulnerable persons in the vicinity, nor whether the changes will result in any street level changes to the outside appearance of the premise.</p> <p>No information on safer gambling interventions or exclusions has been provided to support the application.</p> <p>Young people aged 16-24 are most at risk from harms from gambling. The applicant does not provide additional information on the nature of gambling products to be included in the licensed area along with any additional information to ensure consistency around age -verification checks and relevant assurances in place to protect young people from being harmed or exploited by gambling.</p>	<p>Not stated</p>
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3.4. No agreements have been reached on representations as at the time of publication of these papers

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.

5. **Manchester Statement of Principles under the Gambling Act 2005**

5.1. 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)

5.2. 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.

5.3. 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.

5.4. 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.

5.5. We will expect risk assessments to also consider local levels of:

- a Deprivation
- b Crime and disorder
- c Demographics in relation to vulnerable groups
- d 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.

5.6. 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.

5.7. The Panel is asked to determine the application