



Second Supplementary - Alcohol and Entertainment Licensing Sub-Committee

Wednesday 8 July 2020 at 10.00 am

This will be held as an online virtual Meeting

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Membership:

Members

Councillors:

Ahmed (Chair)
Long (Vice-Chair)
Kennelly

Substitute Members

Councillors:

Chohan, Hector, McLeish, W Mitchell Murray and
RS Patel, Shahzad, Maurice

For further information contact: Devbai Bhanji, Governance Assistant
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If the Personal Interest is also significant enough to affect your judgement of a public interest and either it affects a financial position or relates to a regulatory matter then after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

***Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect of expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences** - Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

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- (a) Anybody of which you are a member or in a position of general control or management, and:
 - To which you are appointed by the council;
 - which exercises functions of a public nature;
 - which is directed is to charitable purposes;
 - whose principal purposes include the influence of public opinion or policy (including a political party or trade union).
- (b) The interests of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who is the subject of a registrable personal interest.

Agenda

Introductions, if appropriate.

Item	Page
4 Application for an Adult Gaming Centre by Future Leisure Ltd for the premises known as 141 Kilburn High Road, NW6 7HT, pursuant to the provisions of the Licensing Act 2003	1 - 12

Date of the next meeting: **Date Not Specified**



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In the matter of
Application for Gambling Act 2005 Premises Licence

In the name of
Future Leisure Limited

WRITTEN SUBMISSIONS

1. I write in respect of the Hearing of the above matter on 8 July 2020 and further to the additional material provided by Future Leisure Limited, ('the Applicant'), notice of which was supplied on 2 July 2020. The Applicant seeks a license, ('the Application') over premises at 141 Kilburn High Road, ('the Premises'). These submissions object to the grant of the Application.
2. These Written Submissions are intended to supplement the existing written representation, number 4.10.13 in the papers for the hearing, in relation to the Application. They address the matters raised by the Applicant in the document identified as 4.13 in the papers for the hearing. References to paragraph numbers are to paragraphs in that document unless otherwise stated.
3. The written representations made in objection to the Application make three points in summary:
 - a. There is a cluster of licensed premises in the immediate area. There is, therefore, no business need for the premises. Yet it is an established fact that clustering increases problem gambling.
 - b. There is direct and indirect evidence that gambling premises at this location increase both anti-social and criminal behaviour in the area.

- c. Both the first two points have particular significance having regard to the primary school established within 50 yards of the proposed Premises.
4. All of those three points are directed towards the first and third of the licensing objectives in s1 of the Gambling Act 2005, (the Act), namely:

(a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, and

...

(c) protecting children and other vulnerable persons from being harmed or exploited by gambling.
5. Before turning to the three points and their application to the Act I make some preliminary observations about the Applicant's written submissions:
6. Whilst the numerous representations from local residents in this case, including by local area representatives such as those on behalf of the Brent Eleven Streets association, do not always couch themselves by reference to the express provisions of the Act it is incorrect to suggest, as the Applicant does at paragraph 11, that those representations can be dismissed as irrelevant to the provisions of the Act simply because non-lawyers did not couch them in terms of statute. In particular, the matters tendentiously identified in paragraph 11 at (d), (e), (g), (h), (j), (k), (l) and (m) are plainly intended to relate to ss 1(a) and (c) of the Act and should be understood in those terms. Furthermore, it is suggested in paragraph 11 that some the points raised are not supported by evidence. That is wrong for the following reasons, first, because some of the representations expressly reference external evidence, second, because some of the points made are matters of public record and form part of the Council's

own assessment¹ and third, these representations are themselves evidence of the impact and experience of local residents – in particular in relation to section 1(a) of the Act. It is significant to this third point that the statistics support the direct testimony of local residents as to the effect on matters relevant to section 1(a) of the Act.

7. The Applicant, at paragraphs 4 and 10, suggests that the Application simply replaces one form of premises licence with another. That is not correct. There is currently no licensed premise at 141 Kilburn High Road. That is a state of affairs greatly enjoyed by the local residents. The proposal is, therefore, not about the grant of a ‘replacement license’² but an application to grant a license where one does not currently exist – to alter the *status quo*.
8. It is significant, however, that there was such a licensed premises at 141 Kilburn High Road until 4 August 2019 but that there has not been since that date. It is significant because it means that the effect of licensed premises at this location can be tested not by hypothetical considerations as to what might happen but by looking at rates of anti-social behaviour and crime while there was gambling at this location and afterwards. Doing so makes clear that the presence of the licensed premises significantly increased both anti-social behaviour and crime in this location. I address this below in relation to the second point.
9. It is also significant that the former license was granted in 1993. That is because since that time a primary school has been established only a few hundred feet away. That is a significant change to the local environment with

¹ I refer further to this below

² See paragraph 10

obvious relevance to s.1(c) of the Act. I address this below in relation to the third point.

1. Clustering

10. The first of the three points is that if this license is granted then this Adult Gaming Centre would form part of a cluster of betting establishments and AGC. There is already one immediately opposite on the Camden side of the Kilburn High Road, the Merkur Cashino, there is also a BetFred bookies 60 yards away and a Ladbrokes 400 yards away.³ At paragraph 8, the Applicant acknowledges the presence of the Merkur Cashino but, remarkably, does not mention the many other gambling premises nearby. They are plainly relevant as the Applicant implicitly acknowledges when it elsewhere tries to suggest that it is merely continuing the William Hill gambling license.

11. Two points about this cluster:

12. First, there can be no suggestion of necessity to the grant of this license. Any legitimate public desire to gamble is already met and more than met in this location. That is not a basis for refusal of the license, see section 153 of the Act. It does, however, set the context for the submissions that follow.

13. Second, and directly pertinent to section 1(c) of the Act, it is now well established that clusters of gambling establishments exacerbate problem gambling. That conclusion is set out in Brent's Gambling Licensing Policy 2019-2022, ('the Policy'),⁴ at paragraph 5.2.3 (emphasis added):

'Research has shown that there is a relationship between the spatial distribution of licensed betting offices and problem gambling: The sample

³ All this is visible from Google Maps.

⁴ <https://www.brent.gov.uk/media/16412052/appendix-1-statement-of-principles-for-gambling-v8.pdf>

of those playing B2 machines in the research suggests there is a strong association between concentrations of licensed betting offices and problem gambling. Deprived areas are also known to be associated with problem gambling.'

14. The presence of a fourth gambling premises within a radius of 200 yards can only exacerbate this issue. It plainly increases the concentration of licensed betting offices. The Applicant does not address this Research in its submissions even though it is set out in the Policy, to which it presumably had reference when making the Application.
15. It is also worth pointing out, in this respect, that research commissioned by the Gambling Commission suggested the highest rates of problem gambling were associated with, among other things, playing machines in bookmakers.⁵ It is correct to say, as the Applicant does, that this is an AGC not a bookmakers but the point remains that this is the kind of gambling notably associated with problem gambling.
16. That same paragraph of the Policy notes that deprived areas are known to be associated with problem gambling.⁶ Kilburn⁷ and the adjoining South Kilburn estate are amongst the most deprived parts of Brent.⁸ Accordingly, both factors known to exacerbate problem gambling are present in the area of the Premises.

⁵ See Gambling behaviour in Great Britain 2015 at section 3.4 on pages 30 and 31

<https://www.gamblingcommission.gov.uk/PDF/survey-data/Gambling-behaviour-in-Great-Britain-2015.pdf>

⁶ See also section 5.5.4 of the Policy

⁷ "...the Brent Kilburn ward is in the worst six wards in Brent for life expectancy, benefit dependence, and deprivation." <https://www.camden.gov.uk/documents/20142/7246821/Area+application.pdf/1244774d-a2e2-957a-0bea-b0a758446167>

⁸ <https://www.brent.gov.uk/media/16412125/south-kilburn-profile-final.pdf>

17. So the Council's own research suggests the grant of the Application will exacerbate problem gambling, something particularly associated with this form of gambling. On that basis alone, the Application should be refused under the provision of the Act and in accord with the Policy.

2. Anti-Social Behaviour and Crime

18. The second point concerns the effect on anti-social behaviour and crime in the area.

19. The previous policy, the Brent Statement of Principles 2016 – 2019 recognised the general effect of gambling premises on crime and disorder. Stating, at paragraph 5.2.1:

Gambling venues have an impact on crime and disorder in the borough. In the 2015 Brent Community Safety Strategic Assessment, gambling premises were an identified contributor to 11 out of the 23 Anti-Social Behaviour (ASB) hotspots in the borough. The top five gambling premises made 105 ASB nuisance calls alone in the 12 month period from the 1 February 2014 to 31 January 2015. Between 1 April 2010 and 1 September 2014, the top five gambling premises for crime volume accounted for 116 recorded crimes, including 33 violent crimes.

20. The Council's own assessment recorded here is a direct answer to the Applicant's submission at paragraph 13 that there is no evidence connecting gambling premises and crime.

21. More recent data supports the Council's research and relates particularly to these Premises. The data over time also demonstrates the particular effect of gambling premises on rates and location of crime:

22. If we begin by considering crime data⁹ for April 2020, i.e. during lockdown, within half a mile of the Premises: There were 291 anti-social behaviour crimes reported within half a mile of the proposed premises and of these, 12 were recorded in or around Glengall Passage. (That is the small alley that runs behind the proposed premises and leads directly to the adjacent primary school 50 metres away.) There were 22 other theft crimes recorded, one of which was on Glengall Passage. There were also sexual and violent crime offences recorded nearby on Kilburn High Road.
23. Of course, this is during lockdown and at a time when there was no gambling at those premises. In my submission, it therefore serves to establish a baseline for the location at a time when it was likely to be at its quietest.
24. What then if one rolls back a year – before lockdown and while there were gambling premises operating at that location – to April 2019? The number of anti-social crimes recorded in Glengall Passage or nearby doubles to 25 incidents. One might legitimately ask –was this not just because there was more crime? The answer is, no. In that same month the overall number for the area more than halves to 100. Accordingly, Glengall Passage is the scene of nearly a quarter of ALL anti-social behaviour offences in the area that month.
25. The difference is not, therefore, the amount of crime overall, which was lower. In my submission, the difference is the presence of a gambling business. That submission is consistent with Brent’s own findings about the impact of gambling venues on crime.

⁹ All data obtained from <https://www.streetcheck.co.uk/crime/nw67fa> - This explains the source of its data as - “Police force, neighbourhood and crime data: provided by the Home Office through data.police.uk under the Open Government Licence.”

26. Indeed, the Council on this Application is in a rare position – here we do not need to ask – does the presence of a gambling venue at this specific location potentially increase anti-social behaviour and crime? We do not need to speculate. There was a gambling venue at this location, (despite objection to it by residents at the time), and we know the answer – its presence massively increases crime and anti-social behaviour. That is consistent with the testimony of the local residents opposing this Application.

27. Again, we can speak in general terms of the effect on crime – as the 2016 to 2019 Statement of Principles did – but we can speak in specific terms of the effect of gambling at these Premises. The evidence is clear – the grant of the License will increase crime and anti-social behaviour. Accordingly, if the Application is granted it will, therefore, be done knowing that it will increase crime and anti-social behaviour in the area. It will be done contrary to matters set out in the Policy:

28. At paragraph 4.2.2 the Policy states:

*"...the location of a premises is an important factor when determining a premises licence application. Therefore, this Authority will pay particular attention to the location of gambling premises and the local level of crime. Where an area has a high levels of organised crime, careful consideration will be given to whether it is appropriate for gambling premises to be located there and if so what conditions may be necessary to minimise the risk of crime."*¹⁰

29. In that regard, the *SAFER BRENT, Community Safety Strategy 2018-2021*¹¹ document, at page 65, identifies the proposed location as an Anti-Social

¹⁰ This expressly echoes the guidance at paragraph 5.3 of the Gambling Commission Guidance to Licensing Authorities, 5th Edition <http://www.gamblingcommission.gov.uk/PDF/GLA5.pdf>

¹¹ <https://www.brent.gov.uk/media/16412708/safer-brent-community-safety-strategy-2018-2021.pdf>

Behaviour hotspot - an area with particular issues for 'street drinking' and 'youth related' anti-social behaviour. At page 62, it identifies the Kilburn High Road as a 'stabbing hotspot'. Page 77 identifies Kilburn Ward as one of several gang high risk areas in Brent. These are all factors specifically identified as pertinent at paragraph 4.2.2 of the Policy.

30. By reference, therefore, to the Council's own Policy and own assessment of the location of the Premises the Application should be refused.

3. School

31. The final point is that one thing has changed since the last time that this venue was seeking a gambling license. In September 2015 Kilburn Grange School opened up. The school is right on the doorstep of the venue. The only routes to the school from the South go past the venue either at the back – Glengall Passage, or the front, Kilburn High Road.¹²

32. The evidence of crime¹³ on Glengall Passage, one of the two routes to the school from the South, is addressed above. So is the evidence of crime on Kilburn High Road. But in April 2019, clustered around the primary school location itself, at the other end of Glengall passage, there are reported a robbery, theft from a person, two violent or sexual offences, further anti-social behaviour and an arson. That is just one month.

33. Again, this crime is clustered around the gambling premises operating at the location at that time. Premises for which a further license is now sought. My second and third point are connected: This is not just a cluster of crime on a quiet residential street. It is a cluster of crime on the doorstep of a primary school. Moreover, my first point is also connected to the third point because it

¹² Again, see Google Maps

¹³ Again, see <https://www.streetcheck.co.uk/crime/nw67fa>

has been shown that clusters of licensed premises exacerbate problem gambling and that is plainly an issue where a primary school with impressionable children sits on the doorstep of that cluster.

34. Unsurprisingly, for these reasons, the proximity to the school is a relevant matter to be taken into account under para 4.6.2 of the Policy:

"This Authority will give careful consideration to any application in respect of premises that are located in close proximity to: Schools, [...] Areas that are prone to young people congregating, [...]"

35. In my submission, the presence of the Primary School is a significant factor influencing the impact of the other two factors on the decision to refuse the Application.

4. Rebuttal

36. At paragraph 12, the Applicant suggests that the representations fail to acknowledge the Local Area Risk Assessment, policies and procedures operate by Future Leisure and specific training. As a practical matter, this is no doubt because these documents were not easily (or at all) available to those making representations. However, having reviewed them what is clear is that they all relate to measures that will be taken on the Premises and regarding entry to the Premises. They do not, therefore, substantively address the three points that are made above.

37. The Applicant sets out measures agreed with the Police at pages 6 and 7 of its submissions. What is notable is that they concern primarily crime on the Premises and measures to prevent under-age gambling. None of them address the concern about problem gambling as such. More significantly, none of them address the anti-social behaviour and criminal behaviour in the surrounding area that results from the presence of the Premises. How will

CCTV on the premises stop anti-social behaviour on Glengall Passage? How does the presence of a fire alarm prevent problem gambling? What good is an intruder alarm to someone being mugged on Glengall Road? The residents object to these Premises not because they plan to go into them but because they must walk past them to get to their homes, or take their children to school. Yet no part of the Applicant's proposals addresses these matters or the general effect of the Premises on the area.

38. At paragraph 28, reference is made to the experience of the Applicant. That is demurrable. The issues that arise are not specific to this Applicant but arise from the nature of the proposed Premises and the circumstances of this particular location.

39. The second sentence of paragraph 29 is simply incorrect. At least the representation at 4.10.13 makes express reference to objections founded on the Policy and by reference to the provisions of the Act. The points made at paragraph 6 above are repeated hereunder as are the submissions above.

5. Summary

40. In summary, the evidence of the Council's own research is to the effect that a cluster of licensed premises should not be permitted because of its effect on problem gambling and the clear impact on crime and anti-social behaviour. This is an area of deprivation, an area already plagued by crime, and the grant of the Application will make matters worse. It will do so on the doorstep of a school. The Application fails to meet the Policy as that Policy applies to sections 1(a) and (c) of the Act.

2 July 2020

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