

## The Highland Licensing Board

Meeting 1 October 2013

Agenda Item	12.1
Report No	HLB/119/13

### The Gambling Act 2005 Application for Betting Premises Licence

#### Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for a Betting Premises Licence:

**Premises:** 1A Pumpgate Street, Inverness IV3 8HX

**Applicant:** William Hill, Development Department, PO Box 170 Leeds LS2 8JF

As a letter of objection to the application by an interested party (Merkinch Community Council) has been received and the Board is therefore invited to hear from the applicant and objector before determining the application

#### 1. Background

- 1.1 An application for a Betting Premises Licence was received from the applicant, William Hill, on 21 August 2013 together with layout plans and the appropriate application fee.
- 1.2 An application for a Betting Premises Licence was previously granted for this premises in August 2009. Correspondence from the applicant confirms that this licence lapsed and that the premises never traded, even though the licence was granted.
- 1.3 The applicant has written to confirm that he has carried out the following:
  - Notified all Responsible Authorities;
  - Displayed a Notice of Application for 28 days from the date of the application with a closing date for representations being the 18 September 2013
  - Published the Notice in the Public and Legal Section of the Inverness Courier, with a copy of the publication having been forwarded to the Clerk on 4 September 2013.
- 1.4 An objection was received on 18 September 2013 (letter dated 13 September 2013 Appended) from Richard Burkitt, Secretary, on behalf of Merkinch Community Council. The applicant and the objector have been invited to attend the Hearing.

## **2. Legislation**

**2.1** In exercising their functions under the Act, licensing authorities must have regard to the licensing objectives set out in section 1 of the Act. These 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.

The Gambling Commission Guidance on these three objectives is attached at Appendix 2

**2.2** Section 153(1) of the Act provides that in determining a premises licence application “a licensing authority shall aim to permit the use of premises for gambling” in so far as the authority think it is:

- (a) in accordance with relevant codes of practice issued by the Gambling Commission;
- (b) in accordance with the guidance issued by the Gambling Commission;
- (c) reasonably consistent with the licensing objectives, and
- (d) in accordance with licensing authority’s policy statement.

**2.3** Section 153(2) provides that in determining whether to grant a premises licence a licensing authority “may not have regard to the expected demand for the facilities which it is proposed to provide”.

**2.4** Section 210 prevents licensing authorities, when considering a premises licence application, from taking into account the likelihood of the proposal by the applicant obtaining planning permission or building consent.

**2.5** The Act and related regulations also stipulate mandatory and default conditions which will attach to a premises licence.

### **Recommendation:**

The Board is invited to determine the application after hearing from the applicant and the objector.

Designation: Clerk of the Licensing Board

Date: 16 September 2013

Background Papers: The Gambling Act 2005; letter of representation dated 13 September 2013;

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18 SEP 2013

MERKINCH COMMUNITY COUNCIL  
3c Pumpgate Street.  
Inverness, IV3 8 HX  
13<sup>th</sup> September

To Alasdair Mackenzie Highland Licensing board from Merkinch Community Council.

Dear Sir,

Merkinch Community Council wishes to object to the application for a Betting Office Licence from William Hill for the former Lochiel Bar, 1A Pumpgate Street, Inverness.

The Community council objects to the licensing application made by William Hill on grounds 4.3 of the Highland licensing board policy statement of 19th October 2010 namely:

"Protecting children and vulnerable persons from being harmed or exploited by gambling."

There are already two Ladbrokes bookmakers shops which means eight gaming machines. There are many vulnerable people in Merkinch who have many addiction problems and gambling is high amongst them. We feel that these bookies are only placed in the area for the sake of these gaming machines. At a time of severe austerity as far as benefits are concerned, vulnerable people are now tempted by the number of gaming machines in the area. They believe they have a chance of solving their terrible debt problems and are enticed by the glitzy offers and games of these gaming shops.

Within fifteen minutes of Merkinch there are six betting shopping shops adding up to 24 gaming machines. There is no need for another one to this area to add to the suffering of the poor. It seems to us that bookmakers are deliberately targeting the poor and the vulnerable. We also feel that, at a time when we are covering up cigarettes and trying to deal with the dangers of alcohol, it makes a very bad example to the children to have so many gambling shops in a small space. The children of vulnerable gambling addicts are also severely affected by their parents addiction. There is huge disgust in the area at the arrival of a new bookmakers in Merkinch.

Yours Faithfully,

Richard Burkitt

Secretary Merkinch Community Council

### Extract from Gambling Commission Guidance 4<sup>th</sup> edition:

#### More about the licensing objectives

##### Objective 1

##### **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

**5.9** The Commission play a leading role in preventing gambling from being a source of crime. It will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling, or being associated with providing such facilities. The Act provides the Commission with powers to investigate the suitability of applicants for operating and personal licences, and others relevant to the application. This will provide the Commission with the power to make enquiries about and investigate those who are involved in the control of a company or the provision of gambling. In considering applications for operating and personal licences the Commission will, in particular, take a serious view of any offences involving dishonesty committed by applicants or persons relevant to the application.

**5.10** As applicants for premises licences (except occupiers of tracks who do not propose to offer gambling themselves) will have to hold an operating licence from the Commission before the premises licence can be issued, licensing authorities will not need to investigate the suitability of an applicant. If during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.

**5.11** Among other matters, licensing authorities may need to consider the location of premises in the context of this licensing objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, for example, licensing authorities should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors.

**5.12** A licensing authority will need to consider questions raised by the location of gambling premises when:

- formulating its Licensing Authority Statement of Policy
- receiving relevant representations to an application
- dealing with applications as a responsible authority in its own right
- considering applications before it.

**5.13** Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences. (Although if there are persistent or serious disorder problems that an operator could or should do more to prevent, the licensing authority should bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence.)

**5.14** Local authorities are experienced in making judgements in relation to the suitability of premises, particularly those for which they have responsibilities under the Licensing Act 2003, in which context they have wider powers to also take into account measures to prevent nuisance.

**5.15** In relation to preventing disorder, licensing authorities have the ability under section 169 of the Act to attach additional conditions to premises licences, and are entitled to include a requirement for door supervision, as provided for in section 178 of the Act. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence. Further information on conditions can be found in part 9 of this Guidance.

**5.16** Local authorities should note that in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor.

## **Objective 2**

### **Ensuring that gambling is conducted in a fair and open way**

**5.17** The Commission is concerned to ensure that not only is gambling fair in the way it is played, but also that the rules are transparent to players and they know what to expect. It achieves this by working to ensure that:

- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry
- easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted
- the rules are fair
- advertising is not misleading
- the results of events and competitions on which commercial gambling takes place are made public
- machines, equipment and software used to produce the outcome of games meet standards set by the Commission and operate as advertised.

**5.18** Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. (However, if licensing authorities suspect that gambling is not being conducted in a fair and open way this should be brought to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence or of an individual to hold a personal licence.)

**5.19** In relation to the licensing of tracks the licensing authority's role will be different from other premises in that track owners will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. Please see part 20 of this Guidance for more information.

## **Objective 3**

### **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

**5.20** With limited exceptions, the intention of the Gambling Act is that children and young

persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective refers to protecting children from being 'harmed or exploited by gambling'. That means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children, excepting Category D gaming machines.

**5.21** In relation to casinos, the Commission has issued a code of practice on access to casino premises by children and young persons, as provided for by section 176 of the Act. The code of practice is available as part of the *Licence Conditions and Codes of Practice (LCCP)* on the Commission website<sup>1</sup>. In accordance with that section, adherence to the code will be a condition of the premises licence. (Please see part 9 of this Guidance for more information.)

**5.22** The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission does not seek to define 'vulnerable persons', but it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.

**5.23** Licensing authorities need to consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations need to be balanced against the authority's objective to aim to permit the use of premises for gambling.