

Cheltenham Borough Council Licensing Sub Committee-Alcohol and Gambling Minutes

Meeting date: 5 June 2024

Meeting time: 4.00 pm - 6.40 pm

In attendance:

Councillors:

Dr David Willingham, Simon Wheeler and Julie Sankey

Also in attendance:

Vikki Fennell (Senior Lawyer) and Jason Kirkwood (Licensing Team Leader)

1 Election of Chair

Councillor Willingham was elected to act as Chair.

2 Apologies

There were none.

3 Declarations of interest

There were none.

4 Application for a Premises Licence - Admiral, 218 High Street, Cheltenham

The Licensing Team Leader introduced the report and set out the options available to Members, highlighting the fact that no specified hours are requested in the licensing application, but Christmas Day opening will not be permitted, and that there were no representations from responsible authorities. Advice to the applicant from environmental health officers is not relevant to the sub-committee's consideration today.

In response to a Member question, the Licensing Team Leader confirmed that there were no representations from the police; one of the public representations makes reference to crime and disorder in the area, and it is up to Members to consider this evidence and how much weight to give it accordingly.

There were no questions from the objectors at this stage.

In response to questions from the applicant, the Licensing Team Leader confirmed that:

- the police were notified of the application, together with other responsible authorities, and raised no objections;
- planning permission for the change of use was granted by the Planning Inspectorate earlier this year, but planning considerations of amenity and heritage are separate matters and not relevant to the licensing application under consideration.

Statement from the objectors

The solicitor on behalf of the St Matthew's and the Minster made the following points:

- the objectors are seeking a refusal of the licence;
- the application is not clear as to the total number of high-stake machines that could be installed here. Higher stakes machines will be more attractive to vulnerable gamblers;
- following refusal of the original planning application, which included 24-hour opening, the current opening hours (Monday to Saturday 9.00am-midnight, Sunday 10.00am-10.00pm) were granted by the planning inspector. If Members are minded to grant the licence, requiring the licensing hours to mirror the planning application hours would mean the applicant would have to come back and request 24-hour gambling hours, rather than have an automatic right;
- the Minster is very close, making this an unsuitable site for premises licensed for gambling; it has first-hand experience of crime and disorder in the area, with specific incidents referenced on Gloucestershire Police website, providing evidence that this is classed as a high-crime area; it is perverse to say that the crime risk is low;
- this is a sensitive location with regard to protecting children and other vulnerable persons – in the town centre, near McDonalds and fashion outlets, YMCA, and the Saturday Kitchen operating at the Minster;
- Betfred closes at 11.00pm, and people are likely to move on to Admiral to continue gambling if opening hours permit;
- there are concerns about staffing numbers which appears to be a grey area. If a single person is on duty and focussed on denying entry to children and intoxicated or homeless people, as is proposed as a control measure for anti-social behaviour, who will be looking after the gamblers? If granted, there should be a condition for at least two members of staff to be on duty at all times, given the location and the precedent at other Admiral premises;
- recognising that Admiral premises licences already have a number of conditions, but in recognition of the town centre location, he asked that the following elements should be conditioned: a maglock, minimum staffing levels,

requirement to join Betwatch or local equivalent, adequate lighting, monitors and hold-up system for staff protection, adherence to Challenge 25, maintenance of a refusals book, staff training re. social responsibility, trigger indicators and most importantly the manning and door supervision key.

Noting that the aim is to permit, he asked Members to consider carefully the location, issues and risks. He said Admiral have had applications refused previously, but if Members are minded to grant, he would request these additional conditions to address the main concerns.

A representative of the Minster added the following:

- she had first-hand knowledge of the crime incidents raised in the representations, and of the regular drug and alcohol abuse in the Minster grounds; rough sleepers who have occasionally lit small fires, and vulnerable people congregating on the north side to drink and smoke weed is quite normal, as is the ongoing problem of graffiti on the listed Minster and surrounding walls – the Friends of Minster Gardens group have to clean up every Monday;
- Minster staff do what they can to support people by offering a friendly ear, shelter and hot food through the Saturday kitchen, but are concerned that more vulnerable people may congregate here due to the outlet. the churchyard is a thoroughfare to all parts of the town with no gates, and the late proposed hours could exacerbate the situation;
- the Minster holds family-friendly services and uses the churchyard for events, always carrying out a sharps sweep beforehand;
- the MX project is coming to fruition, representing significant investment in the town, and the Heritage Watch scheme has resulted in some improvements to the churchyard area, but on any sunny day, people continue to congregate here for alcohol and drug use.

In response to a Member question, the Chair confirmed that any conditions regarding hours of opening attached the planning permission are immaterial to the licensing decision, and the Licensing Team Leader reiterated that the overriding consideration of the sub-committee is the merits or otherwise of the licensing application; they should determine it accordingly, not consider the planning application or predict what might happen in the future. The objector's solicitor said his point was that if the planning hours of operation are mirrored in the licence, the applicant would need to come back for an extension to 24-hour trading; if granted today, a further application would be required to extend the hours after six months' trading to extend planning hours, at which point any impact on crime and disorder could be taken into consideration.

In response to a Member's question, the objector confirmed that any heritage crime at the Minster is reported under the Heritage Watch Scheme, and that bigger incidents, such as the fire by the west door, are also reported – though nothing usually comes of it. As a result, Minster staff tend not to report the regular, minor anti-social behaviour in the churchyard.

Statement from the applicant

After introducing the applicant's representatives, the barrister on behalf of the applicant considered the background to the application:

- the existing adult gaming centres on the High Street currently trade 24/7, with no conditions or door staff, and have not been subject to review or complaint - they have not caused any additional disorder or disturbance;
- Admiral is a national brand leader with 280 outlets, none of which have ever had their licences reviewed, despite being located in some challenging districts around the country. An application in Westminster was initially refused, then granted on appeal, and there have been no subsequent issues or complaints. There is no reason to think there will be any crime and disorder issues with this site;
- planning permission is clearly granted under a separate regime, and Members must address their minds to the licensing objectives and not restrict the licence hours, particularly as the other High Street premises have 24/7 opening hours;
- occupancy of the premises, formerly a retail unit but currently closed and redundant, is to be welcomed. It is a single, clean site, with a good shape and structure to allow proper staff surveillance, unlike the other adult gaming centre on the High Street;
- although the problem with some degree of crime and disorder in the Minster gardens is acknowledged, it is not right or fair to suppose the adult gaming centre premises will have any connection to that. The average age of customers is 40-50, under-18s are not admitted, and Admiral has a vigorously-enforced Challenge 25 policy. There is no reason to think people using the premises will have anything to do with crime and disorder.

He went on to highlight some of the points set out in the report:

- the Gambling Act requires applications to be permitted unless there are clear reasons demonstrating that the licensing objectives won't be met;
- the applicant has a longstanding and positive relationship with the Gambling Commission and plays a leading role in BACTA (British Amusement Catering Trade Association);
- staff are trained extensively and continuously, and encouraged to circulate and engage with customers to ensure they are the correct age and not problem gamblers, as well as working with the police and charities;
- the premises have good access and site-lines, and a double-door lobby system to manage noise and access;
- CCTV operates in every outlet, and due to concerns about the Minster, Admiral will happily install additional cameras along the alleyway from the front corner to the rear, to give comfort to the local community;
- the type of machine is irrelevant and fixed by statute, and there will be no B2 machines;
- no alcohol is served – only tea, coffee and soft drinks;
- the objectors have not provided evidence to show that crime, disorder and anti-social behaviour will increase – the police have been engaged and made no objection – and it is not right to connect typical customers of adult gaming centres with the kinds of problems of crime and disorder which currently occur around the Minster. Admiral operates premises near to schools, hospitals and churches around the country, with no complaints, and the frontages and games

are not attractive to children and vulnerable people. Staff are trained to spot anyone who may have a problem;

- the 24/7 licence is in keeping with elsewhere around the country, and the planning restriction is currently in place;
- Admiral units are well run, with a Challenge 25 policy strictly observed; these premises are ideal, and not likely to be a hub or focus of disorder.

He asked that the application should be granted as made.

In response to Members' questions, the applicants confirmed that:

- 24-hour CCTV and motion-sensitive lighting of the alleyway can be installed;
- the operating licence is governed by overarching legislation and any extra conditions would be duplicating those already in place; a very small minority of premises, mostly in central London, operate with any additional conditions;
- the law requires anybody setting up a gambling business to apply for an operating licence, a long and tortuous process of investigation and personal management licences; once granted, information is provided to the Gambling Commission every quarter to ensure that everything is being done correctly. Members can rest assured that the company's operating licence will ensure high and correct standards are being maintained;
- they are aware that the March Gold Cup and other race meetings bring large numbers of people to the town, are proactive in monitoring such things, and would ensure additional security if necessary at such times. The company also subscribes to Betwatch and council schemes around the country and could seek to enrol here;
- top-quality maglock and internal CCTV are installed at all Admiral premises, with potential for further door security if needed.

The Chair wondered whether the conditions requested by the objectors could be added for reassurance, even though the applicant says these fall within current practice. The applicant's barrister said that conditions should not be imposed unless they are absolutely necessary; this is a good operator, with a good record, looking to licence an unremarkable site, making any additional conditions unnecessary. The Licensing Team Leader added that it would be *ultra vires* to apply conditions here - the details and options available to Members are comprehensively set out in the report.

In response to further questions, the applicants stated that:

- Admiral is aware of the possibility of vulnerable people using loans or credit to gamble; they don't offer credit themselves, and shop-floor staff are trained to a high level, encouraged to understand the issues around vulnerability, build relationships with customers, notice any changes in their playing and actions, and act accordingly by logging interactions and escalating concerns to senior managers. Measures are in place to ensure the safety and wellbeing of customers, and any type of money-lending activity in the venues is not tolerated;
- whilst Admiral occasionally operates promotional and marketing offers, staff will be vigilant, managing and controlling vulnerable customers, understanding

changing habits, with processes in place to cover every aspect of social responsibility; people will be excluded from venues if necessary;

- the highest category of machine at the venue is B3; there will be no B1 or B2 category machines.

In response to a request from the Licensing Team Leader, conscious of the fact that Members rarely consider this sort of application and are probably not aware of the customer dynamic at an adult gambling centre, the applicant stated that:

- on a typical Friday evening, there will be a wide variety of customers; the average customer is male and 40-45 years old, though this varies depending on location and looks slightly different in some city centre locations;
- throughout the day, the clientele tends to be slightly older, with more females earlier in the day, often calling in during a shopping trip; shop workers and shift workers drop in throughout the day and night, and during later hours, people finishing work such as taxi drivers, bar and restaurant workers, and cleaners call in;
- the sort of people who congregate in the churchyard are definitely not Admiral's customer base. It is not a cool venue for teenagers, and people are not allowed to loiter; anyone on the premises is taking part in the activities;
- in most locations, Admiral is a community hub for like-minded people, which grew massively over the Covid period, becoming a touchpoint for older clientele, an enhancement to the high street, and a safe, social environment facilitating low-stakes gambling;
- typical numbers within the premises are low at any one time, from five to 10-12 as a maximum at any one time.

There were no further questions.

The sub-committee adjourned to consider the case.

On its return, the legal officer read the following statement:

DECISION

The unanimous decision of the committee is to grant the licence as applied for with the mandatory conditions

There is no reason to refuse the application based on what the sub-committee has read and heard today

The sub-committee has read the report of the licensing team leader, all of the documentation, listened to the oral submissions from the objectors and from the applicant and its representatives

The sub-committee has given due regard to:-

1. The provisions of the Gambling Act 2005 which confer the powers of the Licensing Authority to deal with the application where there is a presumption to permit the application under section 153(1)

2. The obligation to promote the three licensing objectives.
3. The relevant sections of the council's Statement of Licensing Policy and Statutory Guidance.
4. The PSED
5. the fact that there were no objections from any of the responsible authorities, in particular the police in relation to crime and disorder
6. the fact that the applicant is a vastly experienced and responsible operator with a longstanding relationship with the Gambling Commission and very detailed policies, procedures and training in place for its staff

Considering the representations in turn, the sub-committee concluded that:

Number 4: no weight can be applied as it does not meet any of the licensing objectives and gambling is a lawful activity.

Number 3: some weight can be given but the reported crime and disorder has not been evidenced in an objection by the police, and if there is already crime and disorder in the area not associated with gambling, the new adult gaming centre is unlikely to have any impact – it is there irrespective of the gambling. The sub-committee hopes that the applicant's undertaking to add light and CCTV will help alleviate some of the existing crime and anti-social behaviour.

Number 2: some weight is given but there is no reference to any of the licensing objectives.

Number 1: this representation is very well put together, and Members appreciate that the objectors have taken the time to attend and put their objections over carefully and succinctly. However, as crime already exists and has done for a long time, the applicant cannot be blamed for this or expected to solve the problem. The Westminster example is not relevant to this application and was overturned on appeal. Members are sympathetic to the concerns raised but lack the evidence to put any conditions on the licence at this stage.

All parties are reminded of their right to appeal and should there be any new evidence of any additional issues once the business is up and running, the licence can be called in for a review

5 Briefing Notes

There were none.

6 Any other items the Chairman determines to be urgent and which requires a decision

There were none.