



20th March 2023.

Licensing Sub-Committee

Subject: Application for a Betting Premises Licence under The Gambling Act 2005.

Report of:

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Purpose / Summary:

To consider an application for a new Betting Premises Licence under the Gambling Act 2005 for BETFRED, 11 Market Place, Gainsborough, Lincolnshire, DN21 2BP.

RECOMMENDATION(S):

1) That the Panel of the Committee of the Licensing Authority determine the application for a new Betting Premises Licence under the Gambling Act 2005 for BETFRED, 11 Market Place, Gainsborough, Lincolnshire, DN21 2BP.

IMPLICATIONS

Legal:

Where a licensing authority grants or rejects an application for a premises licence, notice of the decision must be given as soon as is reasonably practicable to –

- The applicant
- The Gambling Commission
- Any person who made representations about the application
 - The Chief Officer of Police for the area
- Her Majesty's Commissioners of Customs and Excise

If the application is granted, the notice –

(a) must be in the prescribed form,

(b) if the licensing authority have attached a condition to the licence under s 169(1)(a) or excluded under s 169(1)(b) a condition that would otherwise have attached by virtue of s 168, must give the authority's reasons, and

(c) if representations were made about the application under s 161, must give the authority's response to the representations.

If the application is rejected, the notice –

(a) must be in the prescribed form, and

(b) must give the authority's reasons for rejecting the application

Where a licensing authority rejects an application for a premises licence, the applicant may appeal.

Where a licensing authority grants an application for a premises licence either of the following may appeal –

- a) A person who made representations in relation to the application
- b) The applicant.

Appeals must be instituted in the Magistrates Court for the area within 21 days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought.

Financial: N/A

Staffing: N/A

Wards/Communities Affected: South West Ward, Gainsborough, Gainsborough Town Centre area.

Equality and Diversity including Human Rights:

Any decision taken will be in accordance with the Gambling Act 2005.

Human Rights Act 1998 Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest

Article 6 – right to a fair hearing

Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life

Article 10 – right to freedom of expression.

The Statement of Principles sets out the approach of the licensing authority in respect of safeguarding, when considering applications.

Data Protection Implications: N/A

Climate Related Risks and Opportunities: N/A

Crime and Disorder Considerations:

The licensing objectives include; Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, which must be considered when determining an application for a premises licence.

S.17 Crime and Disorder Act 1998 - (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Lincolnshire Police have not made a representation in respect of the application.

Health Implications: N/A

Title and Location of any Background Papers used in the preparation of this report:

Gambling Act 2005 <https://www.legislation.gov.uk/ukpga/2005/19/contents>

Gambling Commissions –Licence Conditions and Codes of Practice
<https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp>

Gambling Commissions – Guidance to Licensing Authorities
<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

West Lindsey District Council Policy (Statement of Principles) Gambling Act 2005
<https://www.west-lindsey.gov.uk/sites/default/files/2022-02/Statement%20of%20Principles%202022-2024%20%28Gambling%20Act%202005%29.pdf>

Risk Assessment: See the Legal section above in relation to Appeals.

CALL IN AND URGENCY:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1. Background.

- 1.1. Under Section 150 (1)(e) of the Gambling Act 2005, a premises licence authorises the provision of facilities for betting, whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets (a “betting premises licence”).
- 1.2. The Licensing Team on behalf of the Licensing Authority received an application on 25th January 2023 from the Development Department, BETFRED, Spectrum, 56-58 Benson Road, Birchwood, Warrington, WA3 7PQ for a new Betting Premises Licence in respect of: BETFRED, 11 Market Place, Gainsborough, Lincolnshire, DN21 2BP.
- 1.3. A copy of the application form and supporting documents submitted by the applicant, including a local area risk assessment can be found at Appendix 1.
- 1.4. All required documents were provided with the application and the application was correctly served on all responsible authorities. In accordance with the legislation, notice of the application was sent to the responsible authorities being:

The Gambling Commission
Lincolnshire Police
Lincolnshire Trading Standards
Lincolnshire Fire and Rescue
Lincolnshire Safeguarding Children’s Board
Planning Department
Environmental Health
H M Revenue & Custom
- 1.5. The application, at Appendix 1, requests the licence be granted for the default hours of a Betting Premises. This applies to gambling facilities in Betting Premises which may not be offered between the hours of 10pm on one day and 7am on the next day, on any day. The applicant has not volunteered conditions proposing a particular closing time within the application.
- 1.6. A plan proposing the layout of the premises can be found within the application at Appendix 1.
- 1.7. The application was advertised in accordance with the standard procedures required by the Gambling Act 2005 and consulted for the required 28-day consultation period.
- 1.8. On 8th March 2023 BETFRED submitted further documents to support their application. A written submission, a GOAD map and Gainsborough Application Brochure are attached at Appendix 3 and Appendix 4.

2. Operating Licence

- 2.1. A premises licence may not take effect unless the applicant is in possession of an operating licence issued by the Gambling Commission.
- 2.2. The applicant Done Brothers (Cash Betting) trading as BETFRED holds an Operating Licence issued by the Gambling Commission to provide betting facilities. Operating Licence Number 000-001058-N-102469-001.

3. Representations

- 3.1. The effect of Section 162 (1) of the Act states that where relevant representations are made and not withdrawn, the Licensing Authority must hold a hearing to determine the application, unless all are agreed that such a hearing unnecessary.
- 3.2. The effect of Section 162 (3) of the Act states that relevant representations are those that relate to the effect of the granting of the application on the promotion of the licensing objectives made by an interested party or responsible authority that have not been withdrawn and are not, in the opinion of the relevant licencing authority, frivolous or vexatious.

4. Responsible Authorities

- 4.1. There were no representations received from Responsible Authorities.

5. Interested Parties

- 5.1. For the purpose of this Act, interested parties are a person who:
 - a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
 - b) has business interests that might be affected by the authorised activities
 - c) represents persons in either of these two groups.
- 5.2. There has been one representation received from an interested party. A copy of this representation can be found at Appendix 2.

6. Licensing Objectives

- 6.1. There are three licensing objectives (under Section 1 of the Act) which guide the way that the Commission and licensing authorities perform their functions and the way that gambling businesses carry on their activities.
- 6.2. When considering an application for a grant of a new premises licence, the licensing authority has a duty to pursue the licensing objectives.
- 6.3. The three licensing objectives 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.

7. Principles to be Applied

7.1. Section.153 of the Act provides that, in exercising its functions under Part 8 of the Act, a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it –

- a) in accordance with any relevant code of practice under s.24
- b) in accordance with any relevant guidance issued by the Commission under s.25
- c) reasonably consistent with the licensing objectives (subject to a and b above)
- d) in accordance with the licensing authority's statement of licensing policy (policy statement) (subject to a to c above).

7.2. West Lindsey District Council's Policy (Statement of Principles) Gambling Act 2005, states at – Paragraph 3.6;

The Licensing Authority will consider the following when taking protecting of children and other vulnerable persons from being harmed or exploited by gambling licensing objective into account:

- Whether the operator has a specific training programme for staff to ensure they are able to identify children and vulnerable people and take appropriate action to promote this objective to exclude them from the premises or parts of the premises;
- If the premises is an adult only environment, whether the operator has taken effective measures to implement a proof of age scheme to ensure no one under the age of 18 is admitted to the premises or restricted areas;
- Whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling;
- Whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling;
- Whether any promotional material associated with the premises could encourage the use of the premises by children or young people;
- Whether the premises are located near to facilities that may encourage their use by vulnerable people, such as hostels for those with mental illness and/or addiction problems.

Paragraph 3.7 states;

Applicants should be reasonably consistent when considering the licensing objectives referring to the protection of children and other vulnerable persons. It is noted that neither the Act nor the Gambling Commission Guidance define the term 'vulnerable persons'. The Licensing Authority consider the term 'vulnerable persons' to include 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 a mental impairment, alcohol or drugs.

Part B of the policy states the general principles to be applied within the decision-making process when considering an application

7.3. The Gambling Commission's Guidance to Licensing Authorities states the following:

At paragraph 5.20 Whilst 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 this guidance, any relevant Commission code of practice, its own statement of licensing policy, and the licensing objectives.

At paragraph 5.21 In the unlikely event that a licensing authority perceives a conflict between a provision of a Commission code of practice or this guidance, and its own policy statement or view as to the application of the licensing objectives, the structure of s.153 makes it clear that the Commission's codes and this guidance takes precedence.

At paragraph 5.22 In determining applications for premises licences, the Act explicitly sets out two principles that licensing authorities should not have regard to:

- s.153 makes it clear that in deciding whether or not 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
- s.210 (1) of the Act states that 'in making a decision in respect of an application, a licensing authority should not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with law relating to planning or building'.

8. Options

8.1. The Members of the Panel of the Committee of the Licensing Authority must consider the application on its own merits, representations made and any evidence and submissions made at the hearing and take such of the following steps as it considers necessary with a view to promoting the licensing objectives and in accordance with the principles.

8.2. In making its decision, Members of the Panel are asked to consider the application in line with the following:

- The Gambling Act 2005

- The Gambling Commission's Licence Conditions and Codes of Practice
- The Gambling Commission's Guidance to Licensing Authorities
- West Lindsey District Council Policy (Statement of Principles) – Gambling Act 2005.

8.3. The Panel of the Committee of the Licensing Authority, as they consider it appropriate and in accordance with Section 163 of the Gambling Act, on considering an application for a premises licence (whether at a hearing or not) shall –

- a) Grant the application
- b) Grant the application and attach conditions (provided these do not contravene S169(4) of the Act)
- c) Grant the application and exclude any default conditions (that would otherwise be applied by virtue of S168 of the Act).
- d) Reject the application.

8.4. Conditions attached to a premises licence by the licensing authority may address matters dealt with by excluded default conditions and may apply to the premises generally or only in relation to a specified part of the premises.

8.5. Section 169 (4) of the Act provides that; A licensing authority may not attach a condition to a premises licence which prevents compliance with a condition of the operating licence authorising the holder to carry out the activity in respect of which the premises licence is granted.

9. Appendices

Appendix 1 – Application from BETFRED, includes plan of premises and local area risk assessment.

Appendix 2 – Representation.

Appendix 3 – Additional paperwork to support BETFRED application - written submission,

Appendix 4 – Further paperwork to support BETFRED application -GOAD map and Gainsborough Application Brochure.