

BEFORE WALSALL BOROUGH COUNCIL
(LICENSING & GAMING SUB-COMMITTEE)
THE GAMBLING ACT 2005

IN THE MATTER OF AN APPLICATION FOR AN “ADMIRAL” AGC
AT 9 – 11 PARK STREET, WALSALL WS1 1LY

KEY SUBMISSIONS ON BEHALF OF THE APPLICANT

Introduction

1. This is an application for a premises licence under s.159 of the Gambling Act 2005. Although it is an application for a “new” licence, it should be noted that the Applicant currently trades a s.159 premises at Bradford Street and is, in reality, only seeking to relocate. Should this application be granted the Applicant undertakes to surrender its existing licence.
2. There have been no problems reported in connection with the Bradford Street premises. It has traded as an AGC (originally under the Talarius brand) for well over 20 years. It has traded a 24/7 licence since September 2022. No crime has been linked to it. Planning permission has been granted for change of use at the Park Street premises. The police do not object and make no representations. There are, however, four trade objectors.
3. The Applicant, Luxury Leisure (together with its sister company Talarius Ltd) is the largest operator of AGC’s in the UK. It operates more than 260 high-street AGC’s nationally and employs over 3,000 in doing so. It trades on the high street as the “Admiral” brand.
4. It has an excellent reputation in the industry, being a founding member of “Bacta” (the British Amusement Catering Trade Association). It runs its business with a high degree

of professionalism, and in particular pays considered attention to its obligations of social responsibility (indeed Elizabeth Speed, General Counsel to the Applicant is currently chair of Bacta's "Social Responsibility Committee").

5. The premises at 9 – 11 Park Street are entirely suitable premises to trade as an AGC, and it has signed a conditional lease to occupy, contingent upon a suitable AGC licence being granted.
 - a. The premises are on the ground floor of a disused commercial premises. They are opposite "Playland" – which also trades as an AGC. It is understood that it has done so without complaint.
 - b. The premises are modest / medium in size and have a relatively modest frontage.
 - c. They are situated on the Park Street within a mix of shops, restaurants and other retail services.
 - d. The premises are currently unoccupied and have been empty since 2018. Previously they were traded as Luda Bingo. To the best of the Applicant's knowledge, they were traded as such uneventfully.
6. The Applicant has conducted a thorough Local Risk Assessment. It has addressed in a comprehensive way the identified risks and concerns.
7. The Applicant sets out its submissions in summary below, however in the circumstances it submits that its proposal has properly addressed the licensing objectives and that since its proposal is reasonably consistent with them, it should be granted.

Law

8. There is a presumption in favour of grant: section 153(1) of the Gambling Act 2005 prescribes that a licensing authority should "aim to permit" the grant of a premises' licence.

9. In n particular under the heading *Principles to be applied* it provides:
- (1) In exercising their functions under this Part 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 any relevant code of practice under section 24,
 - (b) in accordance with any relevant guidance issued by the Commission under section 25,
 - (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)), and
 - (d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).
10. Accordingly, subject only to the provisions of subsection s. (1) (a) – (d) there is a mandatory obligation on a licensing authority to “aim to permit” the use of premises for gambling.
11. The meaning of “aim to permit” is explained in the leading practitioner work on gambling law, ‘Patersons’ as follows:

It creates a presumption in favour of granting the premises licence

The provision appears to place a duty upon the licensing authority to exercise their powers so far as is lawfully possible to achieve a position in which they can grant the premises licence and thus permit the premises to be used for gambling. "

12. Further, the Gambling Commission’s published “Guidance to licensing authorities” states at para 5.34:

Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives.

An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).

13. From this it apparent that:

- a. A dislike of gambling; a general notion that it is undesirable to allow gambling premises in an area; and / or moral or ethical objections to gambling are all legally irrelevant to the determination of an application for a premises licence
- b. If it is to decide against the presumption in favour of granting a premises' licence a licensing authority must do so on evidence, that is to say, for a demonstrable reason. Finding or holding a "concern" will not be enough, because without being backed by evidence a concern is not capable of being able to "*demonstrate that the licensing objectives are not being, or are unlikely to be, met*", which is the test.

14. Lastly, the question of need or demand is irrelevant, since by virtue of s.153 (2):

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.

15. In fact, these propositions are very helpfully set out in Walsall Council's Statement of Principle (bundle pp 8 – 11).

The Applicant

16. The Applicant is a vastly experienced and responsible operator:

- a. It has a longstanding and positive relationship with the Gambling Commission.

- b. It plays a leading role with Bacta. Senior management members have chaired: the AGC committee and the Social Responsibility Committee; and are members of its Family Arcade Committee and its national governing body.
 - c. Exceptionally, its policies, procedures and standards are certified by the Global Gambling Guidance Group (G4), the internationally recognised group of experts on safer gambling.
17. It is the largest AGC operator nationally and is accepted to be the industry leader in terms of setting standards.
- a. It is constantly reviewing and revising its policies, procedures and provides comprehensive staff training.
 - b. It always works closely with the police, charities (for instance StreetLink) and all the responsible authorities.
 - c. As stated, the Applicant operates over 260 AGC's nationwide, including nearly 40 in London. Of note is that it has been trading under the current licensing regime since 2007 and in that time none of its premises have ever been the subject of an application for review, save alone have any been reviewed, and conditioned or revoked. (see w/s of James Stugess, pp 191 – 195 @ p193 para 9)

The Premises

18. The premises are accessed at street level.
- a. The unit has been continually in use in a similar capacity, being traded as an automated Bingo outlet until it closed.
 - b. It is a suitable size: there is no restrictive planning use.

- c. There are good lines of sight within the unit – it roughly forms a rectangle with no corners, or “blind spots”.
 - d. It has a relatively modest street frontage. This vitiates the risk of children and / or vulnerable persons being drawn in.
19. There is easy street access, and equally easy dispersal. In any event the Applicant’s experience is that there is no issue with coming or going, and congregation outside the entrances of its outlets. It is in no way similar to a pub or club in that regard.

Machines

20. The premises WILL NOT have any FBOT (B2 machines): AGC’s may not do so, by law.
21. It will have a mix of other types of machines: a variety of machines is necessary to attract custom and maintain interest and loyalty.
22. The number of machines does *not* correlate directly with customer numbers – as indicated above, typical usage at any one time is modest.
23. The number of B3 and B4 machines is fixed by law. Further:
- a. These machines each have a maximum £2 stake (they are a world apart from the ‘old’ B2 machines (£100 stake) which attracted adverse publicity).
 - b. As stated, an AGC *cannot* be licensed for a B2 machine
 - c. Analysis of information provided in the Gamcare helpline report 2019/20 shows that only 2 -3% of concerns expressed referred to “arcade gaming machines” of any kind. That figure included those which might be found at LBO’s and casinos as well as in AGCs. There is therefore very little empirical reason to express concern at the provision of these machines. Indeed rates of problem gambling nationally are at a record low (0.2%).

- d. (Online gambling, by way of contrast, accounts for the vast majority of cited activities causing concern. Such gambling is often unsupervised, has no restriction on stake size and can be undertaken in drink.)

The Licensing Objectives

24. Under the Gambling Act 2005 the licensing objectives are:

- a. Prevention of Gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime.
- b. Ensuring that gambling is conducted in a fair and open way.
- c. Protection of children and other vulnerable persons from being harmed or exploited by gambling.

Fair and Open

25. There is no suggestion (and could not be) that Applicant does not conduct its AGC's such as to ensure gambling is conducted in "a fair and open way". Turning to the remaining objectives:

Prevention of crime and disorder

26. The Applicant submits:

- a. The Police authority, being the Responsible authority with direct oversight for this objective, has made no representation.
- b. The details of operation are in the local Risk Assessment and sub-committee might like to note that premises will, amongst other measures have:
 - i. Experienced, trained staff with two rota'd on duty at all times
 - ii. Comprehensive CCTV camera coverage.

iii. A maglock

27. Necessarily (by law) the premises do not have a liquor licence. Alcohol is forbidden inside.

28. The Applicant has traded its premises at Bradford Street responsibly and done so without any association with crime.

Protection of children and other vulnerable persons from harm

29. The Applicant's experience is that it has very few issues with children seeking to gain access to its AGC premises.

a. The styling and frontage of its outlets is deliberately designed in such a way so as not to be attractive to children

b. There will be no video games or arcade games within this (or any) Admiral AGC premises.

c. Then Applicant operates a robust Challenge 25 policy: staff failing to adhere to it are automatically investigated for gross misconduct, and if found to have breached the policy, are sacked.

d. Although the site has schools nearby, many do, including of course the applicant's existing site. Nonetheless, underage access is not a problem.

30. The Applicant uses a professional test purchase service (Serve Legal).

31. As for vulnerable people:

a. The applicant operates well developed policies, including a 'self-exclusion offer' to protect those with potential gambling problems

- b. It simply does not experience problems with the homeless. To the extent that this is a concern, it is answered by staff training as to vulnerable customers, and the presence of door supervisors.
- c. Further, the sub-committee is asked to have regard to the Applicant's well-developed policies aimed at spotting vulnerable / addictive gamblers. In particular, by its staff mingling, being trained to recognise signs of distress, and by proactively interacting with those identified as having a potential problem.

Hours

- 32. The Applicant has applied for a 24/7 licence. This is in keeping with many, if not most of its licences elsewhere.
- 33. Such licences are permitted by law, and 'usual.' AGC's do not generate noise nuisance; low-level crime or disturbance; anti-social behaviour; or a reluctance to disperse. (All of these are, of course, familiar to premises serving alcohol.)
- 34. AGC's are a popular part of night-time economy and are used in the early hours by after-shift workers such as hotel staff; cab drivers; hospital workers and other shift workers, as well as tourists.

Objectors

- 35. There are NO objections from the Police, or any of the Responsible Authorities.
- 36. There are 4 local trade objections, including from Mr Kumar, chair of the Walsall Market Traders' Association. These must be considered with care. The Applicant simply notes:
 - a. The Applicant trades in a completely different style to Luda:
 - i. As a bingo venue it attracted a younger customer base (early 20s) - the average age at an Admiral AGC is 44.

- ii. It offered bingo jackpots (of possibly up to £15,000) – the maximum pay-out at an AGC is £500.
 - iii. It aimed for far higher footfall – Admiral venues typically have 5 – 7 people in them on average.
 - iv. It traded with the sale of alcohol through a café bar – AGC venues may not sell alcohol.

- b. The Applicant has conducted a thorough Local Risk Assessment (pp 147 - 202) and has addressed its mind to each of the potential problems it identified. The risk mitigation measures it has decided to implement as a result should answer concerns.

- c. It's experience nationally is encouraging: it has almost no experience of problems with crime and disorder; none of its premises have ever been the subject of a request for review.

- d. Lastly, the Applicant has instructed an independent licensing consultant, Mark Halton to visit the area, and to prepare a report accordingly. Mr Halton is a former MPS police officer and is both highly experienced and respected within the industry. His report is available to the sub-committee. In the "summary" section of his report, he concluded, *inter alia*:
 - i. During visits to Park Street and the streets leading off it between 23 – 25 February 2023 he saw no evidence of crime and disorder or anti-social behaviour, no gangs of youths and no unaccompanied children. He saw no street-sleeping or begging. He found only a few people in the AGC's he entered, all of whom were well-behaved. He concluded "Park Street is probably the quietest street I have carried out observations on" (p168 @ §33).
 - ii. He visited the Admiral AGC premises at Queen Street in Walsall and found a smart, well-illuminated premises, which he concluded was professionally managed. He saw nothing off concern either to local residents or by way of any crime, disorder or anti-social behaviour.

37. The sub-committee can take considerable comfort from these findings.

RICHARD WORMALD KC

3 Raymond Buildings, Gray's Inn.

26 March 2023