

**Democratic Services**

Riverside, Temple Street, Keynsham, Bristol BS31 1LA

Telephone: (01225) 477000 *main switchboard*

Direct Lines - Tel: 01225 395090

Web-site - <http://www.bathnes.gov.uk>

Date: 6 November 2013

E-mail: [Democratic\\_Services@bathnes.gov.uk](mailto:Democratic_Services@bathnes.gov.uk)

**To: All Members of the Licensing Committee**

**Councillors:** Manda Rigby (Chair), Patrick Anketell-Jones, Rob Appleyard, Cherry Beath, Bryan Chalker, Anthony Clarke, Gerry Curran, Andrew Furse, Ian Gilchrist, Martin Veal, Chris Watt and Brian Webber

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Licensing Committee: Thursday, 14th November, 2013**

You are invited to attend a meeting of the **Licensing Committee**, to be held on **Thursday, 14th November, 2013 at 10.00 am** in the **Council Chamber - Guildhall, Bath.**

**A briefing for Members will be held in the Council Chamber at 09.00am.**

The agenda is set out overleaf.

Yours sincerely



Sean O'Neill  
for Chief Executive

**If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.**

*This Agenda and all accompanying reports are printed on recycled paper*

## NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Sean O'Neill who is available by telephoning Bath 01225 395090 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting Sean O'Neill as above.

- 3. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Sean O'Neill as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

**For Councillors and Officers** papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

**Licensing Committee - Thursday, 14th November, 2013**

**at 10.00 am in the Council Chamber - Guildhall, Bath**

**A G E N D A**

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 7.

2. ELECTION OF VICE-CHAIR (IF DESIRED)

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

7. MINUTES: 16 APRIL 2013 (Pages 7 - 8)

8. MINUTES: TAXI SUB-COMMITTEE 7 MAY 2013 (Pages 9 - 14)

These are the minutes of the final meeting of the Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee. Advice was received that, because this Sub-Committee no longer exists, they should be presented for approval to the Licensing Committee.

9. STAGE 2 CASINO PREMISES LICENCE: APPLICATION BY GLOBAL GAMING VENTURES LIMITED TO EXTEND THE DURATION OF A PROVISIONAL STATEMENT (Pages 15 - 208)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on 01225 395090.

# Protocol for Decision-making

## Guidance for Members when making decisions

When making decisions, the Cabinet/Committee must ensure it has regard only to relevant considerations and disregards those that are not material.

The Cabinet/Committee must ensure that it bears in mind the following legal duties when making its decisions:

- Equalities considerations
- Risk Management considerations
- Crime and Disorder considerations
- Sustainability considerations
- Natural Environment considerations
- Planning Act 2008 considerations
- Human Rights Act 1998 considerations
- Children Act 2004 considerations
- Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure they are satisfied that the information presented to them is consistent with and takes due regard of them.

**BATH AND NORTH EAST SOMERSET**

**LICENSING COMMITTEE**

Tuesday, 16th April, 2013

**Present:-** Councillors Sarah Bevan (Chair), Gabriel Batt, John Bull, Anthony Clarke, Gerry Curran, Douglas Deacon (In place of June Player), Douglas Nicol, Manda Rigby, Dine Romero, Tim Warren and Chris Watt

**Also in attendance:** Philip Kolvin QC, Andrew Jones (Environmental Monitoring and Licensing Manager) and Francesca Smith (Senior Legal Adviser)

**28 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

**29 ELECTION OF VICE-CHAIR (IF DESIRED)**

**RESOLVED** that a Vice-Chair was not required on this occasion.

**30 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Cllrs Bryan Chalker and June Player.

Members asked for their good wishes and hope for a speedy recovery to be communicated to Cllr Chalker.

**31 DECLARATIONS OF INTEREST**

There were none.

**32 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**33 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS**

There were none.

**34 MINUTES: 29 JANUARY 2013**

Cllr Bull pointed out that he had not attended the meeting of 29<sup>th</sup> January 2013. The minutes were approved subject to the deletion of Cllr Bull from the list of attendees.

**35 STAGE 2 CASINO PREMISES LICENCE: APPLICATION BY GLOBAL GAMING VENTURES LTD TO EXTEND THE DURATION OF A PROVISIONAL STATEMENT**

The Chair welcomed Andrew Maltby (Director, Deeley Freed Estates) and Charles Whateley (Director, Penhalt Estates) to the meeting.

The Environmental Monitoring and Licensing Manager presented the report. He explained that Global Gaming Ventures Limited had applied for an extension to the Provisional Statement, in relation to the use of premises for the operation of a small casino, which was issued on 9 August 2012 and was due to expire on 16 August 2013. The extension was to be for 18 months or such other reasonable period as the Committee might grant. He invited the Committee to determine the application.

Having been satisfied that the public interest would be better served by not disclosing relevant information, the Committee **RESOLVED** in accordance with the provisions of section 100(A)(4) of the Local Government Act 1972, that the public be excluded from the meeting for this item of business because of the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act as amended..

Mr Maltby and Mr Whateley withdrew from the room as did the Environmental Monitoring and Licensing Manager.

The Committee considered the application.

At the conclusion of the discussion, it was **RESOLVED**, as proposed by Councillor Curran and seconded by Councillor Bull, to extend the Provisional Statement for six months with effect from 16<sup>th</sup> August 2013.

The Committee returned to open session, and the Chair announced the Committee's decision.

The meeting ended at 11.35 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

**BATH AND NORTH EAST SOMERSET**

**LICENSING (TAXIS, STREET TRADING AND MISCELLANEOUS) SUB-COMMITTEE**

**Tuesday, 7th May, 2013**

**Present:-** Councillors Sarah Bevan (Chair), Gabriel Batt and Chris Watt

**Also in attendance:** Alan Bartlett (Principal Licensing Officer), John Dowding (Senior Licensing Officer), Enfys Hughes and Shaine Lewis (Principal Solicitor)

**72 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer drew attention to the emergency evacuation procedure as set out on the agenda.

**73 APOLOGIES FOR ABSENCE**

Councillor Bryan Chalker sent his apologies, Councillor Chris Watt was his substitute.

**74 DECLARATIONS OF INTEREST**

There were none.

**75 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)**

There was none.

**76 MINUTES - 9TH APRIL 2013**

**RESOLVED** that the minutes of the meeting held on Tuesday 9th April 2013 be confirmed as a correct record and signed by the Chair(person).

**77 LICENSING PROCEDURE - APPLICATIONS FOR LICENCES, PERMITS AND CONSENTS**

**RESOLVED** that the procedure for this part of the meeting be noted.

**78 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT PORTER PUBLIC HOUSE, 2 MILES'S BUILDINGS, BATH, BA1 2QS**

The Sub-Committee considered the report which sought permission to provide facilities on the highway for recreation/refreshment at the Porter Public House, 2 Miles's Buildings.

The applicant was present. He confirmed he had read and understood the procedure for the meeting. There were several objectors present.

The Licensing Officer presented the report and confirmed the application was for 21 tables and a number of chairs, every day from 10am – 11pm and the usual consultation had taken place. Several objections had been received to the application. He also informed Members that one objector Gillian Ryan, had requested that a witness speak in support. Following discussion Members agreed to allow the witness, Ian Perkins.

The applicant put his case, he highlighted that the Porter would soon be closing for refurbishment and there would be a significant change in the operation and he was aiming for a different clientele. He had met with local residents to see if there could be some agreement on his plans. He added that thought there was an increase in the numbers of tables and chairs there was no increase to the area. Following questions the applicant stated that he was willing to remove the tables and chairs at the front of the building and one at the far end in Miles's Buildings and reduce the number of tables to 16. He showed Members, Officers and Objectors on the plan.

The Licensing Officer confirmed that the current permission had expired on 31<sup>st</sup> March 2013 but the area applied for was the same with an increase in tables and chairs.

The objectors put their case as follows:-

Robin Davies: highlighted that Miles's buildings was a beautiful part of the city and the tables and chairs blocked the view. He stated that in 2009 planning permission had been refused so there had been a contravention in planning terms. With an increase in the number of tables the smokers could be pushed further up into Miles's Buildings. There did not seem to be enough room for tables at the front of the building. Where would the tables and chairs be stored? The applicant had engaged with the residents but if he reduced the hours they would believe him to be more genuine.

Henry Brown: his concern was the encroachment on the highway as the area applied for was over half of the width of Miles's Buildings and he suggested the stone channel in the middle of the highway was a more suitable boundary. He believed that to have tables and chairs at the front of the building would restrict the area for pedestrians. In respect of the increase in numbers of tables and chairs, he commented that if the second rank of tables on Miles's Buildings was taken out of the application there would still be twice as many tables and chairs as previously permitted.

Gillian Ryan (spoke for the Dougalls in their absence): her objection was the encroachment which seemed to be increasing into Miles's Buildings leaving less space for smokers and drinkers who did not stay within the boundary. In the past she stated that it was very hard for her to pass with a wheelchair. She commented on the management of the area and stated that it got harder to control as the night wore on. In conclusion she stated there were issues of noise and music.

Kim de Morgan: she stated that she was regularly disturbed by noise and music from the Porter which reverberated from Miles's Buildings up to the Circus. She had spoken to the applicant about acoustic curtains to stop the noise from people outside the



Porter. In conclusion she supported that change of operation to a restaurant and away from a pub that attracted young adults.

Ian Perkins (witness for Gillian Ryan): he stated that local residents were disappointed as they had anticipated changes since the new manager had taken over but there had had been none and the outside area continued to be badly managed and left unsupervised with little or no intervention from staff.

The applicant went on to make a closing statement and stated that he had inherited the staff and the operation and management would change following the refurbishment. He concluded by stating he was not increasing the area, had offered to reduce the number of tables and chairs, there was no highway objection, tables and chairs would be stored in the vaults, he would not be selling cigarettes and the outside area would be better managed and supervised.

Following an adjournment it was

**RESOLVED** that a permit be granted for 4 tables on George Street, as applied for, and 12 tables along the length of Miles's Buildings as indicated on the application but not to extend beyond 2.3 metres towards the centre of the highway, for recreation/refreshment at the Porter Public House, 2 Miles's Buildings, Bath, subject to the standard terms and conditions.

#### Reasons for decision

Members took account of the Highways Act, the Council's Policy, the applicant's representations and those made by the objectors.

Members granted a permit for 4 tables on George Street as applied for and 12 tables along the length of Miles Buildings as indicated on the application but not to extend beyond 2.3 metres in width towards the centre of the passage, as Members considered it unreasonable in highway terms, to extend the use of the highway beyond half its available width in all the circumstances and on the basis of the representations made.

#### **79 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVERS HEARING PROCEDURE**

**RESOLVED** that the procedure for this part of the meeting be noted.

#### **80 APPROVAL OF VEHICLE FOR PRIVATE HIRE - MR HUGO ALLEN KING**

The Sub-Committee considered the report which sought approval of a Chrysler Voyager vehicle for use as a Private Hire Vehicle. The vehicle falls outside of the age requirements stipulated in the current Private Hire Vehicle licence conditions.

The applicant was present. He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that the vehicle fell outside the age requirements as stipulated in the private hire vehicle licence conditions. He added that Officers could exercise some discretion when the vehicle was between

two and five years old. This vehicle was just over five years old, therefore the application was presented to the Sub-Committee for determination. The vehicle had been visually inspected by the Licensing Officer and was in very good condition.

Members adjourned the meeting to inspect the vehicle, then the meeting continued.

The applicant put his case and was questioned. He stated that currently he had three vehicles and this vehicle would replace the one that had broken down with a serious defect and had a high mileage. The Chrysler Voyager was in good condition with very low mileage for a car of its age and he would convert it to LPG like his other vehicles. He then made a closing statement.

Following an adjournment it was

**RESOLVED** that the Chrysler Voyager be approved for use as a Private Hire Vehicle subject to the standard conditions.

#### Reasons for decision

In determining the matter Members had regard to the Local Government (Miscellaneous Provisions) Act 1976, the Council's Policy, the Human Rights Act 1998 and case law. Having inspected the vehicle Members found it to be suitable in size, type and design to be granted a licence and therefore delegated authority to the Licensing Officer to issue a Private Hire Vehicle licence subject to the necessary safety inspections and certification.

#### **81 HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE PROPRIETORS' HEARING PROCEDURE**

**RESOLVED** that the procedure for this part of the meeting be noted.

#### **82 EXCLUSION OF THE PUBLIC**

**RESOLVED** "that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended."

#### **83 APPLICATION FOR COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE AND CONSIDERATION OF CAUTION OBTAINED DURING TERM OF PREVIOUS LICENCE**

The Sub-Committee considered the report which sought determination of an application by Mr ADN for the grant of a combined hackney carriage/private hire driver's licence.

The applicant was not present. He had requested that the application be heard in his absence. Members had to consider whether or not to proceed in Mr ADN's absence. The Licensing Officer stated that Mr ADN had not been able to attend the

Sub-Committee on two previous occasions. Members took account of the lengthy email exchange in which the applicant consented to it proceeding in absence and his acknowledgment that it might. Having confirmed that all the information forwarded by Mr ADN was available to them, Members concluded that the matter should therefore proceed in his absence.

The Licensing Officer presented the report, outlined the application and the details of the caution. He circulated the email exchange with the applicant and a letter from the National Illegal Money Lending Team. Members took some time to consider the documents.

The Licensing Officer then called witnesses. The witnesses put their case and were questioned.

Following an adjournment it was

**RESOLVED** that a hackney carriage/private hire driver's licence not be granted to Mr ADN.

#### Reasons for decision

Members had to consider Mr ADN's application for a licence to drive hackney carriage and private hire vehicles. In doing so they had to consider a Police caution obtained for the offence of lending money without a licence and a final warning letter sent to him by the licensing authority. Members therefore had to consider whether Mr ADN was a fit and proper person to hold a licence.

Members had to consider whether or not to proceed in Mr ADN's absence. Members took account of the lengthy email exchange in which he consented to it proceeding in absence and his acknowledgment that it might. Members having confirmed that all the information forwarded by Mr ADN was available to them concluded that the matter should therefore proceeded in his absence.

Members took account of Mr ADN's written statement, the information provided by the National Illegal Money Lending Team and the final warning letter. Members also heard from the witnesses who gave an account of their experiences of Mr ADN's illegal money lending activity.

Members found that Mr ADN was arrested under suspicion of engaging in activities that require a licence when not a licensee pursuant to s39(1) Consumer Credit Act 1974 and accepted a caution. In the paperwork Mr ADN stated the offence resulted from a misunderstanding of the law and said his accountant told him it should be alright. Mr ADN also apologised for what he says was a mistake saying nothing was done with criminal intent. Mr ADN also stated that since his arrest he had become a victim because drivers stopped paying, cars got damaged and one was fraudulently transferred into another's name. Mr ADN stated as a result his business had gone downhill and being able to work would help provide his family and young child with a minimum of financial support. None of Mr ADN's witnesses attended.

Members found that Mr ADN had been a licensee since November 2007 and whilst not attracting complaint from the public the Licensing Team had been contacted by

Police in relation to his vehicles on many occasions. For example, Mr ADN had accrued 15 penalty points on his DVLA driving license 12 for failing to provide the identity of a driver and on three occasions his vehicles had been operated without a MOT certificate thereby rendering any insurance cover void. There had also been a number of incidents where drivers of his vehicles had collided with other road users and no insurance details were provided. Members found in all the circumstances that Mr ADN had failed to live up to his responsibilities as a licensee and had put the public at risk in so doing.

With regard to the caution and cash forfeiture Members took account of the representation from the National Illegal Money Lending Team and the witnesses, Members noted that the evidence leading to the caution arose from a complaint which led to searches of 2 addresses revealing a vast amount of documentary evidence pointing towards large scale illegal money lending and a large sum of cash hidden on one premises, namely £9,980 which was subsequently forfeited. Whilst the National Illegal Money Lending Team concluded Mr ADN was lending to fellow drivers and extorting money from them, Members noted that the caution was given because Mr ADN was a man of previous good character.

In determining the matter Members had regard to the Local Government (Miscellaneous Provisions) Act 1976, the Council's Policy, the Human Rights Act 1998 and case law. Members noted that case law stated hearsay evidence is admissible, the merits of a caution/conviction must not be reviewed or re-opened, the economic wellbeing of the applicant is irrelevant and in considering any action the protection of the public is of the utmost importance. Accordingly the weight attached to the evidence was a matter for Members to decide and with regard to accepting a caution Members noted Mr ADN must have first admitted an offence and agreed to be cautioned. Members also noted that whilst it is not a criminal conviction a caution can be used as evidence of a person's bad character.

Members took the matters and issues of this morning very seriously, some of which they hoped never to come across again. In particular an extremely dim view was been taken of his illegal money lending operation which had connotations of a loan shark and organised criminal activity calling into disrepute the good name of the taxi trade in Bath and North East Somerset. Whilst having taken account of Mr ADN's representations Members concluded that committing an offence out of extreme foolishness rather than a deliberate act was no basis to find he was a person fit and proper and given the sums involved and wide spread nature of his operation concluded it could not be described as arising out of any foolishness or mistake. Accordingly, and given the nature and seriousness of all the matters before them, Members found he was not a fit and proper person to hold a license and they have heard nothing to persuade them that a member of their family or a loved one would be safe in a taxi owned or driven by Mr ADN therefore the application was refused.

The meeting ended at 12.59 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

**Bath & North East Somerset Council**

MEETING:	Licensing Committee
MEETING DATE:	14 <sup>th</sup> November 2013
TITLE:	Stage 2 Casino Premises Licence - Application by Global Gaming Ventures Limited to extend the duration of a Provisional Statement
WARD:	ALL

**AN OPEN PUBLIC ITEM**

**List of attachments to this report:**

Annex A: Provisional Statement granted to Global Gaming Ventures and Annexes.

Annex B: Schedule 9 Agreement

Annex K: Comments from Council Services regarding Global Gaming Ventures request to extend the duration of the period of their Provisional Statement.

**List of attachments which are exempt from the public domain**

Annex C: Application by Global Gaming Ventures Limited to extend the duration of the Provisional Statement ; dated 26 February 2013

Annex D: Extracts from the final report of the Casino Advisory Panel

Annex E: Representations from Global Gaming Ventures Ltd

Annex F: Decision of the Licensing Committee dated 9 August 2012 on the application made by Global Gaming Ventures for the grant of a Provisional Statement for a small casino

Annex G: Correspondence between B&NES and Global Gaming Ventures Limited regarding the timescales for construction in their Stage 2 bid

Annex H: Decision of the Licensing Committee dated 16 April 2013 on the application made by Global Gaming Ventures to extend the period of the duration of the Provisional Statement.

Annex I: Application by Global Gaming Ventures to extend the duration of the Provisional Statement; dated 4 October 2013

Annex J: Documents supporting Global Gaming Ventures application to extend the duration of the Provisional Statement from Deeley Freed and Fladgate.

Annex L: Update on the progress of the development provided by Deeley Freed (5<sup>th</sup> November 2013).

## **1 THE ISSUE**

- 1.1 An application has been made by Global Gaming Ventures Limited (“GGV”), to extend the duration of a Provisional Statement granted by the Committee to GGV.
- 1.2 The Committee first granted the Provisional Statement to GGV on the 9th August 2012 for a period of 12 months. GGV made an application on 26 February 2013 this year to extend the Provisional Statement for a further period and the Committee granted an extension of six months at a meeting on 16 April 2013 which expires in February 2014. GGV have now applied for a further extension of 12 months from the February 2014 deadline.

## **2 RECOMMENDATION**

The Licensing Committee is asked to:

- 2.1 Determine whether or not to grant the application in the terms sought or impose an alternative duration to that sought or decide that the duration of the Provisional Statement is not extended.

## **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 Under Schedule 9 (10) (4) of the Gambling Act 2005 (“the 2005 Act”) the Council has the legal responsibility to determine an application to extend the duration of a Provisional Statement granted by the Council. The 2005 Act makes no provision to charge a fee for an application to extend the duration of a Provisional Statement and the Council has no mechanism to make a charge.
- 3.2 The cost of running the competition, granting the licence and associated work was covered by a specific reserve of £300,000 plus £32,000 from the original bid applicants. Circa £8,250 of this remains and will be drawn down as required by the Public Protection Service to cover the cost of providing specialist legal support to the Licensing Committee (“the Committee”) and the committee process.
- 3.3 Any delay in the project timetable could result in the applicant having to come back to the Council to further extend the duration of the period of the Provisional Statement, this would incur additional costs to the Council in providing specialist legal support to the Licensing Committee and the committee process.
- 3.4 Any costs over the earmarked reserve will be met from the Public Protection Service revenue budgets
- 3.5 If the Licensing Committee determine to extend the duration of the Provisional Statement, this will extend the time period for applying for a premises licence and may in turn cause a consequential delay in the application for the licence, the development of the scheme and the benefits provided in the Schedule 9 Agreement dated 16 August 2012 and made between the Council, GGV, Deeley Freed Estates and AS Wollenberg.

## **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 The Licensing Authority (“the Authority”), was given permission to grant one small casino premises licence (“the Licence”) in its area on 20 May 2008 under the Gambling (Geographical Distribution of Casino Premises Licences) Order 2008.
- 4.2 The Council resolved to take the necessary steps to issue the Licence within its area pursuant to those Regulations, Part 8 and Schedule 9 of the 2005 Act and The Gambling (Inviting Competing Applications for Large and Small Premises Licences) Regulations 2008.
- 4.3 The application process involved a two stage competition procedure. Stage One is a regulatory stage whereby applications are judged in the same manner as any other premises licence application. If there are more successful applicants than licences available, successful applicants pass to Stage 2. Stage 2 is a competition whereby the licence is granted to the applicant whose application, if granted, is likely to result in the greatest benefit to the area of the Authority.
- 4.4 Under Section 204 of the 2005 Act an applicant may apply for a provisional statement in respect of premises that they expect to be constructed or altered or expects to acquire a right to occupy. Once a provisional statement has been granted, an applicant can then apply for a Licence once the relevant criteria have been met.
- 4.5 Four applications, each for a provisional statement, were received and all applications were successful. All four applicants were then invited to apply for Stage 2 of the application process.
- 4.6 Two applications were received at Stage 2 from Apollo Resorts and Leisure Limited and GGV. As stated above, if there is more than one application at Stage 2, the Authority is required to determine which of the competing applications, if granted the Licence, would be likely to deliver the greatest benefit to the Authority’s administrative area.
- 4.7 Under Schedule 9 paragraph 5 (b) of the 2005 Act where a licensing authority issues a licence at Stage 2, it may enter into a written agreement with the winning applicant, as to the provision of services in respect of the authority’s area or otherwise (a Schedule 9 Agreement)
- 4.8 An independent Evaluation Panel was appointed to assess the bids and draft a report to the Committee with recommendations on which development would deliver the greatest benefit to the Authority’s administrative area.
- 4.9 The Committee met on 7 August 2012 to consider the Panel’s report, and assess the two bids. The Committee itself conducted an extensive evaluation of each application in accordance with the Council’s devised Evaluation Criteria and Scoring Matrix. The Committee’s decision and reasons determining which applicant’s bid would be likely to result in the greatest benefit to the area of the Authority was agreed by all Members on 9 August 2012.
- 4.10 The Committee resolved on 9 August 2012 to grant a Provisional Statement, with conditions, to GGV.



- 4.11 Under Schedule 9 paragraph 10 (3) of the 2005 Act, an Authority may provide in the provisional statement for it to cease to have effect at the end of a specified period.
- 4.12 The Committee considered the duration of the Provisional Statement to be granted under Schedule 9. Given the state of advancement of the proposal, the Committee considered that it was reasonable to provide that the Provisional Statement should cease to have effect at the end of 12 months from the decision.
- 4.13 Following the Committee's decision, the duration of the Provisional Statement was imposed as a condition. The Authority sent notification of the Committee's decision and reasons together with statutory notices of Grant and the Provisional Statement itself to GGV on 16 August 2012. The Notice of Grant and Provisional Statement with Annexes issued to GGV is attached at Annex A and a copy of the Schedule 9 Agreement is attached at Annex B.
- 4.14 The Schedule 9 Agreement dated 16 August 2012 provided that various benefits will be triggered once the casino is open and operating and others when Deeley Freed Limited has entered into various contractual obligations. A summary of the benefits are; a proportion of the gaming yield to be paid to the Council; a guarantee as to the provision of jobs and training; the offer of development opportunities and to work with BANES Public Realm and Strategy Team.
- 4.15 Jeffrey Green Russell Limited, Solicitors acting on behalf of GGV, made a written application dated 26 February 2013 to the Council requesting that the duration of the Provisional Statement be extended for an additional 18 months, or such other reasonable period as the Committee may grant. A copy of the letter received from Jeffrey Green Russell Limited is provided at Annex C.
- 4.16 At the meeting of the Committee on the 9 August 2012, the Committee resolved that the Provisional Statement would cease to have effect at the end of 12 months, from that date, on the basis that the development was at an advanced state. To remind Members of the material upon which they assessed the bid by GGV, and the timescales involved for the delivery of the scheme, that part of the final report of the Casino Advisory Panel relevant to GGV's application is provided at Annex D. The representations made by GGV to the Evaluation Panel's report are provided at Annex E. A copy of the decision made by the Licensing Committee on 9 August 2012 is provided at Annex F. Correspondence between GGV, Deeley Freed and B&NES regarding the duration of the Provisional Statement, post grant, is provided at Annex G.
- 4.17 At a meeting of the Licensing Committee on the 16 April 2013 the Committee considered the application by GGV to extend the duration of the Provisional Statement and decided to extend the period by six months until February 2014. A copy of the decision of the committee is provided at Annex H.
- 4.18 On the 1<sup>st</sup> October 2013 Tony Wollenberg, acting on behalf of GGV, submitted a request to extend the duration of the Provisional Statement by a further 12 months. A copy of the request, together with a further submission, is provided in Annex I. Mr Wollenberg has also submitted documents supporting his request from Deeley Freed Estates Limited and Fladgate LLP. He has also provided a copy of the programme for the Saw Close development, copies of these documents are provided in Annex J.



- 4.19 Comments on the proposed extension have been received from officers from the Council's Property, Economic Development and Planning Services, a summary of the comments are provided in Annex K.
- 4.20 An update on the progress of the development has been provided by Andrew Maltby of Deeley Freed Associates, details of which are provided in Annex L
- 4.21 Where an Authority grants or rejects an application to extend the duration of a Provisional Statement the applicant may appeal in the Magistrates' court within a period of 21 days beginning on the day that the applicant receives notice of the decision
- 4.22 On appeal the Magistrates court may;
- a) dismiss the appeal
  - b) substitute for the decision appealed against any decision that the licensing authority could have made
  - c) remit the case to the Authority to decide in accordance with a direction of the court
  - d) make an order about costs
- 4.23 A decision shall have no effect while an appeal could be brought or has been brought and has not yet been finally determined or abandoned but an Authority can decide that the decision may take effect pending the outcome of an appeal.
- 4.24 A party to an appeal in the Magistrates' court may appeal on a point of law to the High Court.

## **5 RATIONALE**

- 5.1 The Committee will take into account the submissions made by the applicant to support their request for an extension in determining this issue.

## **6 OTHER OPTIONS CONSIDERED**

- 6.1 There is no provision for the procedure to be followed where an application has been made to extend the duration of a Provisional Statement and therefore the process is informal. However, the Committee does have the discretion, which is exercisable on ordinary administrative principles, to extend a period specified for the life of a Provisional Statement Therefore; no other options have been considered.

## **7 CONSULTATION**

- 7.1 There is no provision for the making of representations on such an application and therefore no consultation was required for this issue.

## 8 RISK MANAGEMENT

8.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
The Licensing Committee determine whether or not to grant the application in the terms sought or impose an alternative duration to that sought or decide that the duration of the Provisional Statement is not extended	The request is not considered in accordance with the relevant legislation and agreed procedures exposing the Council to the risk of a judicial review and possible claims for compensation.	That officers ensure that the Committee follow the relevant legislation and agreed procedures and give due consideration to the request and come to a decision and provide reasons for their decision.

<b>Contact person</b>	Andrew Jones, Environmental Monitoring and Licensing Manager.  Tel: 01225 477557
<b>Background papers</b>	The Gambling Act 2005  The Gambling (Geographical Distribution of Casino Premises Licences) Order 2008.  The Gambling (Inviting Competing Applications for Large and Small Premises Licences) Regulations 2008  Guidance to Licensing Authorities issued by the Gambling Commission dated September 2012  B&NES Statement of Principles dated January 2013
<b>Please contact the report author if you need to access this report in an alternative format</b>	

**Access to Information Arrangements**

**Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-1441-13

Meeting / Decision: Licensing Committee

Date: 14 November 2013

Author: Andrew Jones

Report/Appendix:

**Stage 2 Casino Premises Licence - Application by Global Gaming Ventures Limited to extend the duration of a Provisional Statement**

**List of attachments to this report:**

Annex A: Provisional Statement granted to Global Gaming Ventures and Annexes.

Annex B: Schedule 9 Agreement

Annex K: Comments from Council Services regarding Global Gaming Ventures request to extend the duration of the period of their Provisional Statement.

**List of attachments which are exempt from the public domain**

Annex C: Application by Global Gaming Ventures Limited to extend the duration of the Provisional Statement ; dated 26 February 2013

Annex D: Extracts from the final report of the Casino Advisory Panel

Annex E: Representations from Global Gaming Ventures Ltd

Annex F: Decision of the Licensing Committee dated 9 August 2012 on the application made by Global Gaming Ventures for the grant of a Provisional Statement for a small casino

Annex G: Correspondence between B&NES and Global Gaming Ventures Limited regarding the timescales for construction in their Stage 2 bid

Annex H: Decision of the Licensing Committee dated 16 April 2013 on the application made by Global Gaming Ventures to extend the period of the duration of the Provisional Statement.

Annex I: Application by Global Gaming Ventures to extend the duration of the Provisional Statement; dated 4 October 2013

Annex J: Documents supporting Global Gaming Ventures application to extend the duration of the Provisional Statement from Deeley Freed and Fladgate.

Annex L: Update on the progress of the development provided by Deeley Freed (5<sup>th</sup> November 2013).

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

*3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).*

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Panel resolve to exclude the public, should they wish to discuss the appendices to the report. The paragraphs below set out the relevant public interest issues in this case.

### **Public Interest Test**

If the Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. Paragraph 3 of the revised Schedule 12A of the 1972 Act exempts information which relates to the financial or business affairs of the organisations which is commercially sensitive to the organisations. The officer responsible for this item believes that this information falls within the exemption under paragraph 3 and this has been confirmed by the Council's Information Compliance Manager.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds.

#### Factors for disclosure:

Disclosure would:

- Further public understanding of the issues concerned.
- Promote accountability and transparency by the Council for the decisions it takes.

- Allow individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.
- Promote accountability and transparency in the spending of public money.
- Further public participation in the public debate of issues.

Factors for withholding:

- Regulation 8 (2)(b) of the Gambling Act 2005 (Proceedings of Licensing Committees & Sub-Committees) (Premises Licences & Provisional Statements) (England & Wales) Regulations 2007, states that part or all of the hearing can take place in private where there is a need to protect as far as possible, the commercial or other legitimate interests of a party.
- The Exempt Annexes contain detailed commercial information detailing the applicants bid for a casino premises licence. The bid was part of a competition for the licence and the Exempt Annexes include sensitive commercial information which if made available would likely prejudice the commercial interests of the parties involved.
- Some of the exempt appendices contain the opinions of Council officers and an external consultant. It would not be in the public interest if advisors and officers could not express in confidence opinions which are held in good faith and on the basis of the best information available.

Reasons why the public interest favours withholding the information:

- It is considered that disclosure of detailed sensitive commercial information would prejudice the commercial interests of the parties involved.
- It would not be in the public interest if advisors and officers could not express in confidence opinions which are held in good faith and on the basis of the best information available.
- It is important that the Committee should be able to retain some degree of private thinking space while decisions are being made, in order to discuss openly and frankly the issues under discussion and that they are able to share important information with Elected Members tasked with representing the local community.
- The Council considers that the public interest has been served by the fact that a significant amount of information has been made available on these issues – by way of the main report.

This page is intentionally left blank

**ANNEX A**  
**PROVISIONAL STATEMENT GRANTED TO GLOBAL GAMING VENTURES AND**  
**ANNEXES**





**NOTICE OF GRANT OF AN APPLICATION FOR A  
PROVISIONAL STATEMENT**

*This notice is issued in accordance with regulations made under section 164(2) of the Gambling Act 2005*

Bath and North East Somerset Council  
Lewis House  
Manvers Street  
Bath  
BA1 1JG

An application for a provisional statement in relation to the following type of premises:

use of the premises for the operation of a small casino

**is granted to:**

Global Gaming Ventures Limited (formerly Great Eastern Quays Casino Limited)

of the following address:

Millennium Bridge House, 2 Lambeth Hill, London, EC4V 4AJ

the number of whose operating licence is:

000-026991-N-310079-002

The premises or proposed premises to which the application relates are:

Former Saw Close Clinic and Gala Bingo Hall, Saw Close, Bath, BA1 1EY.

The provisional statement number is: 12/03060/GAPROV

If a premises licence for the type of premises specified in the provisional statement were to be issued, the licensing authority would attach the conditions set out in Annex A to this Notice, in exercise of their powers under section 169(1)(a) of the Gambling Act 2005.

The licensing authority did receive representations in relation to the application.

The representations received in relation to the application, together with the licensing authority's response, are set out in Annex B to this Notice.

## ANNEX A – CONDITIONS TO BE ATTACHED

Conditions to be attached		Reasons for attaching conditions
1.	The principal entrance to the premises shall be from a street.	Conditions 1 -16 inclusive are mandatory conditions and are attached under the provisions of The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409).
2.	No entrance to the premises shall be from premises that are used wholly or mainly by children, by young persons, or by both.	
3.	No customer shall be able to enter the premises directly from any other premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect.	
4.	A gap of at least 2 metres shall be maintained between any ordinary gaming table and any other equipment, apparatus or structure used by a person to gamble on the premises.	
5.	No more than 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time.	
6.	<p>1) The rules of each type of casino game that is available to be played on the premises shall be displayed in a prominent place within both the table gaming area and other gambling area of the premises to which customers wishing to use facilities for gambling have unrestricted access.</p> <p>2) The condition in sub-paragraph (1) may be satisfied by—</p> <p>(a) displaying a clear and legible sign setting out the rules; or</p> <p>(b) making available to customers leaflets or other written material containing the rules.</p>	

7.	Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming table, gaming machine or betting machine in order to do so.	
8.	A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.	
9.	<p>1) The premises shall contain a table gaming area, the floor area of which is no less than 500m<sup>2</sup>.</p> <p>2) Subject to sub-paragraph (3) below, in determining the floor area of the table gaming area, any number of separate areas within the premises may be taken into account.</p> <p>3) Any separate area that comprises less than 12.5% of the minimum required table gaming area shall not be taken into account in determining the table gaming area.</p>	
10.	No gambling shall be permitted in the table gaming area of the premises other than gambling by way of table gaming.	
11.	<p>1) The premises shall contain a non-gambling area which comprises no less than 250m<sup>2</sup>.</p> <p>2) The non-gambling area may consist of one or more areas within the premises.</p> <p>3) Lobby areas and toilet facilities may be taken into account in calculating the non-gambling area; but the non-gambling area shall not consist exclusively of lobby areas and toilet facilities.</p> <p>4) Facilities for gambling shall not be provided in the non-gambling area.</p>	

	<p>5) At any time during which facilities for gambling are being provided on the premises, each separate area comprising the non-gambling area, other than the lobby areas and toilet facilities referred to in sub-paragraph (3), shall contain recreational facilities that are available for use by customers on the premises.</p>	
12.	<p>A notice shall be displayed in a prominent place in each part of the premises used for providing facilities for betting, setting out the terms on which persons are invited to bet on the premises.</p>	
13.	<p>No more than 40 separate betting positions may be made available for use in relation to betting machines at any time.</p>	
14.	<p>The licensee shall ensure compliance with any relevant Code of Practice issued by The Gambling Commission about access to casino premises for children and young persons.</p>	
15.	<p>The licensee shall not —</p> <ul style="list-style-type: none"> <li>(1) give credit in connection with gambling authorised by the licence, or</li> <li>(2) participate in, arrange, permit or knowingly facilitate the giving of credit in connection with gambling authorised by the licence</li> <li>(3) the conditions in paragraph 2.1 and 2.2 above shall not prevent the licensee from permitting the installation and use on the premises of a machine enabling cash to be obtained on credit from a person (the “credit provider”) provided that— <ul style="list-style-type: none"> <li>(a) the licensee has no other commercial connection with the credit provider in relation to gambling,</li> </ul> </li> </ul>	

	<p>(b) the licensee neither makes nor receives any payment or reward (whether by way of commission, rent or otherwise) in connection with the machine, and</p> <p>(c) any conditions about the nature, location or use of the machine attached by virtue of sections 167, 168 or 169 of the Act are complied with.</p>	
16.	The premises shall not be used to provide facilities for gambling on Christmas Day.	
17.	The Schedule 9 Agreement dated 16 August 2012 annexed hereto shall be complied with.	Condition 17 is imposed under paragraph 7 of Schedule 9 to the Gambling Act 2005.

## ANNEX B – REPRESENTATIONS

### Representation

Received on 4 March 2011 by email:

The Bath Chronicle article "*Four firms battle it out to build Casino in Bath*" published on 3 March has been brought to my attention. No doubt there will be a full public consultation in due course, but in the interim the article invites comment on aspects such as Crime and Disorder, Fairness and Protection of the Vulnerable. There will be others better placed to comment on aspects associated with crime and disorder, and fairness will be a matter of judgment taking into account the various arguments surrounding the planning application. I write as the Chairman of the Royal National Hospital for Rheumatic Diseases, affectionately known as "The Min" and a landmark in the centre of Bath since 1738. The Hospital, which provides specialist care for a wide range of outpatients and inpatients with long term debilitating conditions, is situated immediately next door to one of the proposed sites identified in the Chronicle article; quote "*The other bidders are Great Eastern Quays Casino, which is targeting the former NHS clinic and the Gala Bingo Hall at Sawclose*". Many of our patients, young and older, are particularly vulnerable, restricted in their movement, and in need of a carefully nurtured, calm environment within which their conditions can be addressed. Any plan to site a Casino immediately next to a National Hospital which has provided specialist care for over two Centuries strikes the Board and the Governors, who represent over 4,000 members of the Trust, as potentially misplaced, misguided and most unlikely to be in the interests of protecting the vulnerable who are placed in our care.

Yours sincerely

Peter Franklyn  
Chairman RNHRD

### Licensing authority's response

Officer Comments:

It is accepted that Mr Franklyn represents the Royal Mineral Hospital and is therefore an interested party.

However, Mr Franklyn has addressed the objective of protecting vulnerable people but he has not identified or evidenced how patients at the hospital are particularly vulnerable and at risk from gambling.

Paragraph 5.22 of the DCMS guidance states:-

*"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".*

Mr Franklyn has not provided any evidence that patients at the hospital fall within the above definition.

Recommendations:

Reject the representation on the grounds that it is not relevant in that it does not provide any evidence of a potential problem and that the comments made will certainly not influence the Authority's determination of the application.

A reply was sent to Mr Franklyn by email on 15 April 2011.





## **PROVISIONAL STATEMENT**

***This provisional statement is issued under section 164 of the Gambling Act 2005 (as applied by section 204(2) of that Act) by***

**Bath and North East Somerset Council**

### **Part 1 – Details of person to whom the provisional statement is issued**

This provisional statement is issued to:

Global Gaming Ventures Limited (formerly Great Eastern Quays Casino Limited)

of the following address:

Millenium Bridge House, 2 Lambeth Hill, London, EC4V 4AJ

who holds an operating licence which has been given the following licence number by the Gambling Commission:

000-026991-N-310079-002

### **Part 2 – Details of the premises or proposed premises in respect of which the provisional statement is issued:**

This provisional statement has been issued in respect of the following premises or proposed premises:

Former Saw Close Clinic and Gala Bingo Hall, Saw Close, Bath, BA1 1EY.

### **Part 3 – Provisional statement details**

This provisional statement confirms that the premises or proposed premises mentioned in Part 2 of this statement have in principle been deemed suitable to be licensed for use for the following type of activity:

Use of the premises for the operation of a small casino

This provisional statement is issued on 16 August 2012 and shall cease to have effect at the end of 12 months.

If a premises licence for the type of premises referred to above in this Part were to be issued, the authority would attach the following conditions under section 169(1)(a) of the Gambling Act 2005:

1. The principal entrance to the premises shall be from a street.
2. No entrance to the premises shall be from premises that are used wholly or mainly by children, by young persons, or by both.
3. No customer shall be able to enter the premises directly from any other premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect.
4. A gap of at least 2 metres shall be maintained between any ordinary gaming table and any other equipment, apparatus or structure used by a person to gamble on the premises.
5. No more than 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time.
6. (1) The rules of each type of casino game that is available to be played on the premises shall be displayed in a prominent place within both the table gaming area and other gambling area of the premises to which customers wishing to use facilities for gambling have unrestricted access.  
  
(2) The condition in sub-paragraph (1) may be satisfied by—
  - (a) displaying a clear and legible sign setting out the rules; or
  - (b) making available to customers leaflets or other written material containing the rules.
7. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming table, gaming machine or betting machine in order to do so.
8. A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.
9. (1) The premises shall contain a table gaming area, the floor area of which is no less than 500m<sup>2</sup>.  
  
(2) Subject to sub-paragraph (3) below, in determining the floor area of the table gaming area, any number of separate areas within the premises may be taken into account.

- (3) Any separate area that comprises less than 12.5% of the minimum required table gaming area shall not be taken into account in determining the table gaming area.
10. No gambling shall be permitted in the table gaming area of the premises other than gambling by way of table gaming.
11. (1) The premises shall contain a non-gambling area which comprises no less than 250m<sup>2</sup>.
- (2) The non-gambling area may consist of one or more areas within the premises.
- (3) Lobby areas and toilet facilities may be taken into account in calculating the non-gambling area; but the non-gambling area shall not consist exclusively of lobby areas and toilet facilities.
- (4) Facilities for gambling shall not be provided in the non-gambling area.
- (5) At any time during which facilities for gambling are being provided on the premises, each separate area comprising the non-gambling area, other than the lobby areas and toilet facilities referred to in subparagraph (3), shall contain recreational facilities that are available for use by customers on the premises.
12. A notice shall be displayed in a prominent place in each part of the premises used for providing facilities for betting, setting out the terms on which persons are invited to bet on the premises.
13. No more than 40 separate betting positions may be made available for use in relation to betting machines at any time.
14. The licensee shall ensure compliance with any relevant Code of Practice issued by The Gambling Commission about access to casino premises for children and young persons.
15. The licensee shall not —
- (1) give credit in connection with gambling authorised by the licence, or
- (2) participate in, arrange, permit or knowingly facilitate the giving of credit in connection with gambling authorised by the licence
- (3) the conditions in paragraph 2.1 and 2.2 above shall not prevent the licensee from permitting the installation and use on the premises of a machine enabling cash to be obtained on credit from a person (the "credit provider") provided that—

(a) the licensee has no other commercial connection with the credit provider in relation to gambling,

(b) the licensee neither makes nor receives any payment or reward (whether by way of commission, rent or otherwise) in connection with the machine, and

(c) any conditions about the nature, location or use of the machine attached by virtue of sections 167, 168 or 169 of the Act are complied with.

16. The premises shall not be used to provide facilities for gambling on Christmas Day.

17. The Schedule 9 Agreement dated 16 August 2012 annexed hereto shall be complied with.

**Signed on behalf of the issuing licensing authority**

A handwritten signature in cursive script that reads "Sue Green". The signature is written in black ink and is positioned above a horizontal dotted line.

**ANNEX B**  
**SCHEDULE 9 AGREEMENT**



PROPOSED AGREEMENT BETWEEN  
BATH AND NORTH EAST SOMERSET COUNCIL

-AND-

GLOBAL GAMING VENTURES LIMITED

-AND-

DEELEY FREED ESTATES LIMITED

-AND-

ANTHONY STEPHEN WOLLENBERG

UNDER SCHEDULE 9 OF THE GAMBLING ACT 2005  
RELATING TO THE GRANT OF A CASINO LICENCE PROVISIONAL  
STATEMENT

FOR PREMISES AT

FORMER SAW CLOSE CLINIC & GALA BINGO HALL,

SAW CLOSE,

BATH, BA1 1EY

*I hereby certify that this is an  
accurate copy of the original.*

*M. J. D.*

*Sacred*

*Bath - North East*

*Somerset Council*

This Agreement is dated 16 August 2012

## PARTIES

- (1) Bath and North East Somerset Council of 9-10 Bath Street, Bath, BA1 1SN ("the Council")
- (2) Global Gaming Ventures Limited of Millennium Bridge House, 2 Lambeth Hill, London, EC4V 4AJ ("the Licensee")
- (3) Deeley Freed Estates Limited, 7 Whiteladies Road, Bristol BS8 1NN ("DF")
- (4) AS Wollenberg of 6 Carlyle Close, London N2 OQU ("The Guarantor")

## INTRODUCTION

- (1) The Council is the licensing authority for the purposes of the Gambling Act 2005 for Saw Close, Bath ("the Premises")
- (2) The Licensee has applied for a provisional statement under the said Act for the Premises.
- (3) The Council has determined to grant the Licensee a provisional statement subject to the conditions mentioned therein and to the terms of this Deed.
- (4) The parties have agreed to enter into a legal agreement under Schedule 9 of the said Act in order to secure delivery of the benefits referred to in this Deed.
- (5) The parties acknowledge that the said provisional statement will contain a condition so as to give effect to the Licensee's obligations contained in this Deed.
- (6) This Deed is executed by the Council as the licensing authority pursuant to its powers in Schedule 9 paragraph 5 of the said Act.

### 1. CONSTRUCTION OF THIS DEED

- 1.1 Where in this Deed reference is made to any clause, paragraph or schedule, such reference is to a clause, paragraph or schedule in this Deed.



- 1.2 Words importing the singular meaning include the plural and vice versa, except where the context requires otherwise.
- 1.3 Words of the masculine gender include other genders, and words denoting persons include corporate persons and associations.
- 1.4 Any reference to an Act of Parliament includes any modification or re-enactment of the same and all instruments or orders of whatever nature made under it or deriving from it.
- 1.5 References to the Licensee shall include successors in title to that party in relation to the operation of the casino.
- 1.6 Reference to DF shall, until practical completion of the development of the Premises by or on behalf of DF as anticipated by this Agreement, include successors in title to DF in relation to the construction of that development.

## **2. LEGAL BASIS**

This Deed is made pursuant to Schedule 9 of the Gambling Act 2005, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other powers enabling such agreement.

## **3. CONDITIONALITY**

This Deed is conditional upon grant of a provisional statement ("the Provisional Statement") for the Premises.

## **4. BENEFITS**

- 4.1 The Licensee covenants to provide the benefits set out in paragraphs 1, 2, 3, 5 and 6 of Schedule 1 from the relevant dates specified in that Schedule.
- 4.2 DF covenants to provide the benefits set out in paragraphs 4, 7, 8, and 9 of Schedule 1 from the relevant dates specified in that Schedule.
- 4.3 In the event that any of the said benefits are not provided at any time following the relevant date specified in the Schedule, the Licensee or DF (as applicable to the particular benefit) covenant to pay the Council the relevant liquidated and ascertained damages set out in Schedule 1. Where the relevant benefit is supplied for only a proportion of the month, the liquidated and ascertained damages for that month shall be reduced proportionately.
- 4.4 The Licensee or DF, as the case may be, acknowledge and agree that the obligation in Clause 4.3 will be without prejudice to any other remedies which the Council has for non-provision of the said benefits, including but not limited to enforcement of the conditions of the provisional statement, a claim in debt or specific performance.

## **5. TERMINATION OF AGREEMENT**

- 5.1 The Licensee's or DF's, as the case may be, covenants herein shall continue unless and until the Provisional Statement is surrendered or terminates for any other reason.
- 5.2 Upon surrender or termination (occurring due to breach by the Licensee) of the Provisional Statement, the Licensee or DF as the case may be shall remain liable for any liabilities accrued under this Deed and/or breach of covenant prior to surrender or termination of the provisional statement and the Council's remedies in respect thereof shall not be affected by such surrender.
- 5.3 For the avoidance of doubt in the event that the grant of a premises licence for a casino follows the grant of the Provisional Statement:
- 5.3.1 the Licensee's or DF's covenants herein shall continue in full force and effect unless and until the premises licence is surrendered or terminates; and
- 5.3.2 all references herein to the Provisional Statement shall be deemed to include reference to a premises licence following the grant of the Provisional Statement.
- 5.4 For the avoidance of doubt, in the event of transfer of the Licence or Provisional Statement, the Licensee's or DF's covenants herein shall (subject to clause 5.2) continue unless and until the Council agrees in writing to cancel this Deed.
- 5.5 In the event of such cancellation, the Licensee shall remain liable for any liabilities accrued under this Deed and/or breach of covenant prior to cancellation and the Council's remedies in respect thereof shall not be affected by such cancellation.

## **6. WAIVER OF AGREEMENT**

No waiver (whether express or implied) by the Council of any breach or default in performing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant covenants, terms or conditions or for acting upon any subsequent breach or default.

## **7. INTEREST AND INDEXATION**

- 7.1 Any monetary payments due under this Deed shall carry interest at the rate of 1% above the Bank Rate of the Bank of England from time to time from the date they fell due until the date of payment.
- 7.2 Any fixed monetary payments due under this Deed shall increase on 1<sup>st</sup> January of each year by an amount equivalent to the increase in

the Retail Price Index issued by the Office for National Statistics on 1<sup>st</sup> January of the preceding year.

**8. MISCELLANEOUS**

- 8.1 The Licensee shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed. These costs shall be limited to £3500.00
- 8.2 If any clause of this Deed is found to be invalid, illegal or unenforceable, then this shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 8.3 This Deed is governed by and interpreted in accordance with the law of England and Wales.

**9. GUARANTEE**

For as long as the casino is operational, the Guarantor as primary obligor hereby guarantees the Licensee's obligations to promptly discharge the quarterly payments referred to in the Schedule, provided always that the Guarantor's liability under this clause shall be capped at £100,000. The Guarantor's liability as primary obligor shall not be affected, impaired or discharged by reason of any act, omission, matter or thing which but for this provision might operate to release or otherwise exonerate the Guarantor from his obligations under this Deed.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

## SCHEDULE 1

In this Schedule 'Post gaming tax and VAT Gaming Yield' means the gaming win from live table gaming (including automated games), slot machines and sports betting, less applicable gaming duty and VAT.

Benefit	Starting date	Liquidated and ascertained damages: sum payable per calendar month (where applicable).
<p>1. £250,000. One time lump sum payment.</p> <p>This sum is intended for use as determined by BATHNES.</p>	<p>£125,000 on grant of provisional statement, the balance on the opening of the Casino.</p>	<p>Full indemnity</p>
<p>2. 5% of quarterly post gaming tax and VAT Gaming Yield. This sum is intended for use as determined by BATHNES with the proviso that a proportion thereof, at the discretion of BATHNES, is to be used for education and training for BATHNES residents to secure and progress careers in the leisure and entertainment spheres.</p>	<p>£15,000 minimum per calendar month whilst the casino is operational, payable quarterly in arrears and the balancing payment - if payable - within a period of six months from the relevant year end, if the certified payment is greater than £180,000.</p>	<p>Full indemnity.</p>
<p>3. 78 FULL TIME CASINO JOBS. These jobs and casino supply chain will produce total salaries, wages, taxes and benefits of £1,779,000 per annum and goods and services of £1,000,000 per year.</p> <p>Three full time apprenticeships. It is proposed that 70% of total gambling staff jobs will be awarded to BATHNES residents, but for the purposes of compensation, the "agreed target" is 55%</p>	<p>Casino opening.</p>	<p>Licensee to pay compensation to BATHNES in the event that the performance for BATHNES residents in positions of employment within the Casino fall short of the agreed target by more than 10% (a) upon opening and (b) annually thereafter for a maximum total period of 10 years. The compensation will be paid in the event that actual performance is less than 90% of the agreed target (being 55% of the total permanent casino jobs upon opening the casino and the casino's financial year end and each subsequent year for 9</p>



Benefit	Starting date	Liquidated and ascertained damages: sum payable per calendar month (where applicable).
		<p>years). (i) If the shortfall is less than 10%- no compensation; for a shortfall of between 10% and 20%; compensation of £1,750 for each position beyond the 10% expected to be but not filled by a BATHNES resident, subject to a maximum for this shortfall of £7,500 plus, if applicable for a shortfall between 20% and 30%, £1,000 for each position beyond the 20% expected to be but not filled by a BATHNES resident, subject to a maximum for this shortfall of £7,500, plus, if applicable, for a shortfall of more than 30%, £1,000 for each position beyond the 30% expected to be, but not filled by a BATHNES resident, subject to a maximum for this shortfall of £5,000.</p> <p>Noting that (a) the maximum compensation payable for not achieving the BATHNES employment target in the Casino will be capped at £20,000 at each of the 10 specific dates of accounts, i.e. upon opening and the nine subsequent year ends for the Casino, (b) In the event that the Licensee is able to fulfil part or all of any shortfall in its jobs obligations elsewhere within BATHNES, or a neighbouring borough, then the calculation for compensation payable will be adjusted to reflect the net shortfall after accounting for the jobs it has secured for BATHNES residents elsewhere.</p> <p>Licensee to pay compensation to BATHNES in the event that the</p>

Benefit	Starting date	Liquidated and ascertained damages: sum payable per calendar month (where applicable).
<p>3 (a) In addition to the 3 apprenticeship jobs mentioned in 3. above, an additional 17 job/training opportunities will be provided to BATHNES candidates nominated by The Learning Partnership to at least the level of NVQ Level 2 in the fields of cuisine, hospitality, croupiers and other skills relevant to work in casinos.</p> <p>3 (b) In addition to and as part of 3. and 3 (a) above, GGV/Groupe Partouche will provide interviews for a minimum of 50 candidates who have been nominated by Learning Partnerships as having qualified from the Pre-Employment Training Course. There will be 25 candidates who have qualified under general employability and 25 who have qualified under sector-based employability. In this way and subject to The Learning Partnership nominating 50 candidates at the time prescribed</p>	<p>From Opening of Casino and Over the Following Three Years of Operation.</p> <p>During and just after the period when the casino is being fitted out and opened.</p>	<p>number of BATHNES residents in positions of apprenticeships in the Casino fall short of an agreed target of 3 upon opening and annually thereafter for a maximum all inclusive period of 5 years from the official date of Casino opening. The compensation will be equivalent to £1,000 per annum for each shortfall of an apprentice position and £2,000 for each apprentice position not filled by a BATHNES resident.</p>

Benefit	Starting date	Liquidated and ascertained damages: sum payable per calendar month (where applicable).
<p>above, it is intended that GGV will achieve a target of 30% or more of the total of casino jobs going to suitably qualified BATHNES residents. It should be noted that GGV will not restrict itself to only interviewing BATHNES candidates nominated by Learning Partnerships</p>		
<p>4. 120 CONSTRUCTION JOBS/APPRENTICESHIPS: DF commit to provide that 95% of net new jobs should come from BATHNES residents: all local labour obligations are passed on to sub-contractors and 80% of subcontractors come from within 25 miles.</p>	<p>On commencement of development by or on behalf of DF.</p>	<p>Compensation payable to BATHNES where performance for BATHNES residents in positions of employment fall short of the agreed target by more than 10% in any year. Compensation to apply for the construction period. For a shortfall of less 20% - no compensation, for a shortfall of more than 20% and less than 30% compensation of £1,500 for each position beyond the 20% expected to be but not filled by a BATHNES resident, subject to a maximum for this shortfall of £10,000 plus, if applicable, for a shortfall between 30% and 40%, £1,000 for each position beyond the 30% expected to be, but not filled by a BATHNES resident, subject to a maximum for this shortfall of £10,000. Noting that (a) the maximum compensation payable for not achieving the BATHNES residents employment target during the construction phase will be capped at £20,000. (b) In the event that Deeley Freed are able to fulfil part or all of any shortfall in its jobs obligations elsewhere within BATHNES, or a neighbouring</p>

Benefit	Starting date	Liquidated and ascertained damages: sum payable per calendar month (where applicable).
<p>4 (a) DF commits to providing jobs for a minimum of 10 unemployed BATHNES residents and providing 10 apprenticeships to BATHNES residents to be delivered locally.</p>	<p>On commencement of development by or on behalf of DF.</p>	<p>borough, then the calculation for compensation payable will be adjusted to reflect the net shortfall after accounting for the jobs it has secured for BATHNES residents elsewhere.</p> <p>Regarding the target of 10 apprenticeships to be provided to BATHNES residents during the construction period, DFE commit to pay compensation to BATHNES equivalent to £1,000 for each shortfall of an apprentice position and £2,000 for each apprentice position not filled by a BATHNES resident.</p> <p>For the avoidance of doubt it is confirmed that these compensation payments are one off payments and are not payable monthly.</p>
<p>5. Full time training courses for casino employees</p>	<p>On recruitment following grant of Provisional Statement.</p>	
<p>6. Full time Gambling Addiction Program as per attached policies.</p>	<p>Casino opening</p>	
<p>7. DF to first offer their development supply chain opportunities to local BATHNES businesses, including social enterprises and not for profit sector.</p>	<p>On-going from DF exchanging contract with BATHNES for the acquisition of the property.</p>	
<p>8. DF commits to use all reasonable endeavours to obtain the necessary planning consents for and to use all reasonable endeavours to procure a hotel operator for the scheme who agrees to provide a 4 star boutique hotel with a minimum of 65 rooms.</p>	<p>On-going from DF exchanging contract with BATHNES for the acquisition of the property.</p>	

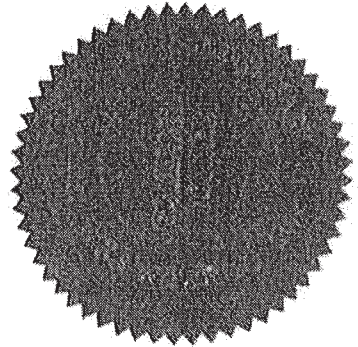


Benefit	Starting date	Liquidated and ascertained damages: sum payable per calendar month (where applicable).
This is expected to provide 35 jobs with annual wages of £700,000		
9. DF to commit to work with the BATHNES Public Realm and Movement Strategy team, working towards consolidating and extending the East West Leisure Axis identified in BATHNES report to the Casino Advisory Panel of 2006.	On-going from DF exchanging contract with BATHNES for the acquisition of the property.	

THE COMMON SEAL OF  
BATH AND NORTH EAST SOMERSET COUNCIL

was affixed in the presence of

  
Authorised signatory:



EXECUTED AS A DEED by  
GLOBAL GAMING VENTURES LIMITED

*AS witness*  
.....  
Authorised signatory

In the presence of :

Witness signature *R. Amsterdam*

Witness name *RAI AMSTERDAM*

Witness address *82 High Street, Station Rd, London, NW4 3ST*

EXECUTED AS A DEED BY  
ANTHONY STEPHEN WOLLENBERG

*AS witness*  
.....

In the presence of :

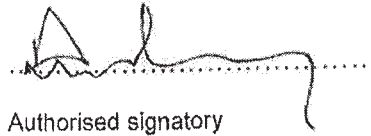
Witness signature *R. Amsterdam*

Witness name *RAI AMSTERDAM*

Witness address *82 High Street, Station Rd, London, NW4 3ST.*

In the presence of:

EXECUTED AS A DEED by  
DEELEY FREED ESTATES LIMITED

  
Authorised signatory

In the presence of :

Witness signature



Witness name

NICOLA GOULD

Witness address

56 HAMPDEN CLOSE, YATE, BRISTOL, BS37 5UP.



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

**ANNEX K**

**Comments from Council Services regarding Global Gaming Ventures  
request to extend the duration of the period of their Provisional  
Statement.**

## **Property Services**

When Saw close was selected as the Casino site the comprehensive development of the area, of which the Casino forms part was at a relatively early stage. Therefore a lot of stages have had (or still need to be) completed prior to physical work starting.

As well as the obvious planning consent etc. the developer had to find other suitable occupiers (now hotel and restaurants) as the Casino itself is not big enough.

Until the other occupiers had been found the detailed design of how the various users space would fit together could not begin and of course the planning application could not proceed.

In the present economic climate and over the last few years development funding has been difficult to obtain. The Sawclose developer has now arranged funding. This funding of course could not be arranged until the tenants were identified and the fund knew "what it was buying".

As a scheduled ancient monument a detailed archaeological dig had to be carried out on the site before the detailed design could be drawn up.

The bingo club currently on the site is subject to an existing lease to the operator. Terms for terminating this lease had to be agreed.

The developer had to negotiate terms with Property Services for the development, but these negotiations could only be concluded (there are still outstanding matters) once the details of the occupiers and the design were known and the cost on construction estimated.

There is concern that the confirming of all the legal contracts and particularly the funding may collapse if there is no certainty that the project can proceed subject only to planning (subject to planning conditions are normal in property transactions, but anything else adding uncertainty could unravel the scheme). If the funder or even the operator were to walk away not only would the Bath Casino project be seriously delayed but until an alternative occupier for the casino space was found there would be no development of Saw close. In fact it could be worse as the delay may cause the other occupiers to pull out.

In terms of the Saw close development it is worth remembering that the Council does not own all the land and so in the event if the present project collapsing the Council would not be free to simply promote some other alternative scheme with another developer.

## **Economic Development**

We should avoid a situation where GGV keep having to come back for extensions of their Provisional Statement: this process is time consuming, costly for the Council and the applicant and unsettling for GGV and the developer. If it leads to GGV pulling out this will have serious consequences.

We advised on the initial award of the Provisional Statement to GGV that the 12 month limit was too tight given the complicated nature of the development (WHS / listed buildings / archaeology / heritage) and we also advised that the subsequent 6 month extension was too short. We MUST be realistic this time

To convert the Provisional Statement to a Premises Licence GGV need a "right to occupy". The letter from solicitors acting for GGV indicates that this would be triggered by the completion of an "Agreement for Lease" (AFL) which in turn would require a valid planning consent for the whole development.

The master programme prepared by Deeley Freed indicates that they are hoping to achieve an unconditional planning consent ( linked to a completed section 106 agreement ) by the end of June 2014 which would then allow an AFL to be completed. Andrew Maltby from Deely Freed has confirmed this but cautioned that there could well be delays because of the complicated planning process. GGV's solicitors have indicated that time will be required to finalise the AFL and subsequently prepare the Premises Licence application and there will then be a lead in time for the Licensing Committee report and hearing: so potential timetables could be :

- July '14 unconditional planning – September '14 AFL – November '14 Licensing Committee  
OR
- September '14 unconditional planning – November '14 AFL – January '15 Licensing Committee

From the above timetables a 12 month extension to February 2015 does not seem unreasonable however I would suggest that, prior to the Licensing Hearing on the 14<sup>th</sup> November we should open a dialogue with Deeley Freed and GGV based on a shared internal view of what is a reasonable timetable.

## **Development Control**

The application is valid and currently being considered. We have entered into a Planning Performance Agreement, this agreement confirms that the application should be considered at the Development Control Committee on the 12<sup>th</sup> February 2014 and the decision issued by 12<sup>th</sup> March 2014.

Following this, a number of planning conditions will need to be cleared prior to the commencement of the development, this process should be completed by the beginning of July 2014. This is provided the required details are submitted in a timely fashion.

This page is intentionally left blank



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank