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**PROVISIONAL DECISION TO GRANT AND APPLICATION FOR A PROVISIONAL
STATEMENT TO APOLLO RESORTS AND LEISURE LIMITED**

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Provisional Decision for Apollo Resorts and Leisure Limited

Licensing (Gambling and Licensing) Sub-Committee**7th June 2011****APPLICATION FOR GRANT OF PROVISIONAL STATEMENT FOR SMALL CASINO****CATTLE MARKET SITE, WALCOT STREET, BATH BA1 5 BD****DECISION**

The Sub-Committee has heard an application by Apollo Resorts and Leisure Limited for a provisional statement for a small casino licence at the above address. The hearing today concerned Stage 1 of the application process pursuant to Schedule 9 of the Gambling Act 2005.

The application

The proposed casino will be sited in a seven storey development (including a lower ground floor). The casino would have a principal entrance from Walcot Street at ground level. The casino would be on the first floor. The only access to the casino at first floor level would be via the principal entrance. At the lower ground and ground floor levels there would be commercial units, which may include bars, restaurants and shops. These would be physically and functionally separate from the casino. The entrance to the hotel would be at ground floor level with accommodation sited on floors 2, 3, 4 and 5.

The applicant has also applied to exclude the default condition as to hours of trade, so as to permit trading for 24 hours per day.

The application has received a representation from a local businessman, Mr. Siddall, who has not attended the hearing. His representation is to the effect that groups of young people often gather and walk along Walcot Street at night. They are frequently boisterous and sometimes clearly intoxicated. As a result, from time to time one of his shop windows is broken at night. He is concerned that more bars and late night venues such as a casino will attract more groups of young people (whether or not they choose to, or are old enough to, use those facilities) with a consequent increase in petty crime and public disorder.

Prior to the hearing, the applicant lodged two further documents, a social responsibility policy and a crime and disorder policy. Mr. Siddall lodged one further document, namely notice that the police have recently executed a drugs warrant in the area. These were admitted by the Sub-Committee under regulation 9(4)(b) of the Gambling Act 2005 (Proceedings of Licensing and Sub-Committee) Regulations 2007.

The applicant was represented by Mr. Mike Nuttall, the Managing Director of the Applicant.

He explained that the company had been interested in the site over a long period and had been successful at Stage 1 in five other areas. The company wished to bring a leisure and entertainment destination to the site.

There had been no representations from responsible authorities or other residents.

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Mr. Nuttall stated that the car park currently had no security, night time use, active CCTV or supervision. The proposals would create more footfall but it would be a lighter, brighter area, CCTV externally and 24 hour door supervision (if default conditions are removed). He believed that the development would help with Mr. Siddall's concerns. Casinos do not increase crime and disorder. They are carefully monitored establishments, and the applicant would work in partnership with police. Apollo therefore do not believe that the casino would add to crime and disorder.

Councillor Batt asked whether, in accordance with the authority's statement of principles, the applicant had discussed the application with the police. The applicant had not.

The Sub-Committee has considered, in accordance with Schedule 9 paragraph 4 of the Gambling Act 2005 whether it would grant this licence if it had power to grant more than one premises licence for Bath and North East Somerset. The Sub-Committee's jurisdiction in that regard is governed by section 153 of the Gambling Act 2005 which requires the licensing authority to aim to permit the use of premises for gambling in so far as the authority thinks it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
- (b) in accordance with any relevant guidance issued by the Commission;
- (c) reasonably consistent with the licensing objectives (subject to (a) and (b));
- (d) in accordance with the authority's gambling licensing policy (subject to (a) – (c)).

In applying that test, the Sub-Committee may not have regard to the expected demand for the proposed facility (s 153(3)) and nor may it have regard to whether the proposal is likely to be permitted in accordance with planning or building law (s 210). This approach applies both to the principle of the licence sought and to the application to exclude the default condition relating to hours of operation. The Sub-Committee may not have regard to information which is relevant at Stage 2 of the Schedule 9 procedure unless it is also relevant to the determination at Stage 1 (see Regulation 6 of the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and paragraph 4.4 of the Secretary of State's Code of Practice). Furthermore, the Sub-Committee may not at this stage have regard to whether any of the competing applications is more deserving of being granted (Schedule 9 paragraph 4(2)(a) Gambling Act 2005). The Sub-Committee confirms that it has obeyed all of these requirements.

The Sub-Committee has accepted the thrust of Mr. Nuttall's representations in this case. The Sub-Committee sympathises with Mr. Siddall's views, but does not believe that the casino is likely to add to crime and disorder. Rather, the further supervision and monitoring brought by the casino is likely to assist in the prevention of crime and disorder. Furthermore, it does not believe that it would be in the interests of a hotel or a casino for there to be crime and disorder in their immediate environs, and the Sub-Committee believes that any responsible operation will wish to work to resolve any such issues.

In the circumstances, the Sub-Committee is satisfied that the relevant tests have been met and that it is appropriate to make a provisional decision to grant the application.

For the avoidance of doubt, any eventual licence for these premises will be subject to the statutory conditions included under:

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- sections 176(3) of the Gambling Act 2005 (as to compliance with the Commission's Code of Practice as to access for children and young persons);
- section 177 thereof as to the giving of credit;
- section 183, which prohibits the use of the premises for gambling on Christmas Day.

Given that there are competing applications for the small casino licence, this is a provisional decision issued under Schedule 9 paragraph 4(2)(c) of the Gambling Act 2005. If it transpires that other applications are successful at Stage 1, then those applications will join this one at Stage 2 of the competition.

Decision

The Sub-Committee therefore makes a provisional decision to grant the application for a provisional statement and to exclude the default condition as to hours of operation.

7th June 2011

