

Bath & North East Somerset Council		
MEETING:	Licensing (Gambling and Licensing) Sub Committee	
MEETING DATE:	Tuesday 7th June 2011	AGENDA ITEM NUMBER
TITLE:	Application for the Issue of a Provisional Statement for a proposed small casino at Cattle Market Site, Walcot Street, Bath BA1 5BD Apollo Resorts and Leisure Limited, 24 Adam and Eve Mews, London W8 6UJ	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Appendix A; Copy of the application for a Provisional Statement</p> <p>Appendix B; Copy of Location Map and Plans</p> <p>Appendix C; Copy of a relevant representation</p>		

1. THE ISSUE

- 1.1 An application has been received from Apollo Resorts and Leisure Limited, 24 Adam and Eve Mews, London W8 6UJ, under the Gambling Act 2003 ("the Act"). The application is for the issue of a Provisional Statement in respect of a proposed small casino on the Cattle Market Site, Walcot Street, Bath BA1 5BD.

2. RECOMMENDATION

- 2.1. The Sub-Committee is asked to determine the application having considered the application, the supporting information provided by the applicant and the representation made against the application.

3. FINANCIAL IMPLICATIONS

- 3.1. An application fee of £8,000 has been received, which covers the cost of the application process.

4. THE REPORT

- 4.1. An application has been received for the issue of a Provisional Statement to provide gambling facilities by way of a small casino. A copy of the application form can be found at Appendix A.
- 4.2. The hours applied for are Monday to Sunday 00.00 to 24.00.
- 4.3. A map showing the location of the application and plans showing the proposed use of the premises can be found at Appendix B.
- 4.4. A relevant representation has been received from an Interested Party. A copy of the representation can be found at Appendix C. The representation relates to the late night economy, which is causing crime and disorder, and they fear that the addition of a casino will lead to more crime and disorder.
- 4.5. In accordance with the requirements of the Act the applicant served copies of the application upon the Gambling Commission, police, the fire authority, environmental health, development control, trading standards, and the child protection agency.
- 4.6. The applicant is required to place a notice at the premises for a period of 28 days, starting on the closing date for the receipt of applications (see paragraph 5.5.below), and place an advert in a local newspaper within 10 days of the closing date.

5. BACKGROUND

- 5.1. The licensing authority ("the authority") was awarded 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). These Regulations state that no more than one such licence issued by a licensing authority may have effect at any time.
- 5.2. Under the Act a licence is required where an applicant intends to provide gambling facilities. The application seeks to provide gambling facilities in the form of a small casino.
- 5.3. A small casino is classified in The Categories of Casino Regulations 2008, as having a combined floor area of those parts of the casino, which are used for providing facilities for gambling, that are equal to or exceed 500 square metres, but is less than 1,500 square metres.
- 5.4. Under section 204 of the Act an applicant may apply for a Provisional Statement in respect of premises that he expects to be constructed or altered or expects to acquire a right to occupy. Once a Provisional Statement has been issued, the applicant can then apply for a licence at a later date.

- 5.5. The issue of one Provisional Statement for a small casino is governed by a competition procedure which is governed by Paragraphs 4 and 5 to Schedule 9 of the Act. An invitation to apply for the licence was advertised in October 2010 with a closing date of 28 February 2011.
- 5.6. Stage 1 of the competition procedure is regulatory. At Stage 1 an authority must not;
 - 5.6.1. take into account any matters which they would not ordinarily take into account in determining an application for a licence
 - 5.6.2. have regard to whether any of the competing applications is more deserving of the other at Stage 1.
 - 5.6.3. have regard to the expected demand for the facilities which it is proposed to provide.
 - 5.6.4. take into account whether or not the proposal is likely to be permitted in accordance with the law relating to planning or building.
- 5.7. At Stage 1 the Licensing Authority may either make a provisional decision to grant a Provisional Statement or reject the application. If issued, an authority shall attach mandatory conditions to the Provisional Statement and may attach default conditions. These conditions are governed by The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (“the 2007 Regulations”).
- 5.8. The applicant has requested that the default condition, found in Part 6 of the 2007 Regulations, be excluded. This states that no facilities for gambling shall be provided on the premises between the hours of 6.00 am and noon on any day.
- 5.9. In addition the authority can impose further conditions to promote the licensing objectives
- 5.10. Where licensing authorities determine that they would, if they were able, to issue more than one Provisional Statement, the applicants who made those applications must be invited to participate in Stage 2.
- 5.11. The award of the Provisional Statement for a small casino at Stage 2 of the competition is determined by the full Licensing Committee. (“the Committee”). At Stage 2, the Committee must award the Provisional Statement to the application which would, in the licensing authority’s opinion be likely, if granted, to result in the greatest benefit to its area.

6. PRINCIPLES TO BE APPLIED

- 6.1. Under the provisions of the Act an authority, in making decisions at stage 1, shall aim to permit the use of premises for gambling in so far as the authority thinks it is:

- 6.1.1. in accordance with any relevant code of practice issued by the Gambling Commission (“the Commission”), and
 - 6.1.2. in accordance with any relevant guidance issued by the Commission and,
 - 6.1.3. reasonably consistent with the licensing objectives (subject to 6.1.1 and 6.1.2 above) and,
 - 6.1.4. in accordance with the authority’s Statement of Principles (“the Statement”) under the Act (subject to all of the above).
- 6.2. With regard to paragraph 6.1.3 above, the licensing objectives are:
- 6.2.1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - 6.2.2. Ensuring that gambling is conducted in a fair and open way
 - 6.2.3. Protecting children and other vulnerable persons from being harmed or exploited by gambling (it should be noted that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.)
- 6.3. The authority shall also have regard to the Act, the Statutory Guidance issued under Section 25 of the Act and its Statement in making its determination.
- 6.4. The committee should give specific consideration to the relevant representation received and whether or not it is satisfied that the premises can operate without risk to the licensing objectives listed in paragraph 6.2. If it is not satisfied then the committee should consider whether the risk can be alleviated through the implementation of a licence condition or, if not, whether it is necessary to refuse the application.

7. APPEAL PROVISIONS

- 7.1. If the application is refused the applicant may appeal within 21 days of written notification from the authority to the Magistrates’ Court. If the application is granted any person making a relevant representation may appeal within 21 days of written notification from the authority to the Magistrates’ Court.
- 7.2. On appeal the court may either dismiss the appeal, substitute the decision appealed against for any other decision which the authority could have made, or remit the case to the authority to dispose of in accordance with the direction of the court. The court may make such order for costs as it thinks fit.
- 7.3. In the event that an appeal is lodged, Stage 2 of the competition is suspended.
- 7.4. This report has not been sent to the Trades Union because they would have no involvement.

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.

9. EQUALITIES

9.1. The Council's Equality Policy has been followed in writing this report.

9.2. The committee will take into account their equality duties in determining this application.

10. CONSULTATION

10.1. As part of the application process the applicant placed a public notice in the Bath Chronicle, public notices were also displayed around the boundary of the proposed site and a copy of the application was sent to all the Responsible Authorities.

11. ISSUES TO CONSIDER IN REACHING THE DECISION

11.1. Section 153 of the Gambling Act 2005, Licensing Objectives, Human Rights, Equalities.

12. ADVICE SOUGHT

12.1. The Council's Monitoring Officer (Council Solicitor) has had the opportunity to input to this report and have cleared it for publication.

Contact person	Andrew Jones, Environmental Monitoring and Licensing Manager. Tel: 01225 477557
Background papers	The Gambling Act 2005 The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 The Gambling (Geographical Distribution of Casino Premises Licences) Order 2008 The Categories of Casino Regulations 2008 The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 Code of Practice - Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos dated 26 February 2008 Guidance to Licensing Authorities issued by the Gambling Commission 3 rd Edition dated May 2009. BANES Statement of Principles dated February 2010
Please contact the report author if you need to access this report in an alternative format	