

APPLICATION FOR A BETTING PREMISES LICENCE - GAMBLING ACT 2005

Betextra Limited 17-19 Market Place, Sheffield, S1 2GH

CASE OUTLINE

APPENDICES

Appendix 1: Updated LARA

Appendix 2: Internal photographs of the current shop.

Appendix 3: Gambling Commission guidance document.

Appendix 4: Daniel Thwaites PLC v Wirral Borough Magistrates Court 2008 EWHC 838

INTRODUCTION

1. Betextra Limited have an operating licence issued by the UK Gambling Commission which allows them to operate betting shops in England, Wales and Scotland. The Gambling Commission, in determining whether to issue an operating licence to a company, will check whether the business will uphold the licensing objectives and if it is suitable to carry out the activities that the licence will allow. In assessing the suitability of a business, the Commission considers its ownership, finances, integrity and competence. The Gambling Commission assess policies that are in place to make sure that the licensing objectives will be followed; there is an understanding of the legislation overall; evidence that all arrangements will meet social responsibility requirements. The Commission set a high bar for the test on granting new operating licences.
2. Currently Betextra operate 6 licensed betting shops in Yorkshire. They are situated at:
 - 13 Frederick Street Rotherham
 - 1 St Sepulchre Gate Doncaster
 - 16 Baxtergate, Doncaster
 - 57 Low Pavement, Chesterfield
 - Unit 7b Crossgates Shopping Centre, Leeds
 - 19 Market Place, Sheffield
3. They are a small independent 2nd generation family run Yorkshire business and have never been refused an application when applying for permission.

4. They have had no reviews of their premises licences, and have had no regulatory issues in relation to their retail units. In all of their shops they have a significant number of regular repeat customers who are known by the staff who interact with them.
5. The number of betting offices in Sheffield centre has reduced significantly in recent years from 15 shops to 8. This has therefore reduced the number of Fixed Odds Betting Terminals (FOBT) from 60 to 32.
6. This is not an application for the grant of an additional licence. It is an application to increase the area of the premises and to be able to offer the regular customers better and more modern facilities. If this licence is granted the existing licence for 19 Market Place, Sheffield would be surrendered.
7. If this application is granted there will not be an increase in Betting Shop licences, compared to the position that has existed for a number of years in Sheffield centre.
8. In addition, the applicant has secured planning permission granted by your colleagues in the planning department. No additional conditions or restrictions have been placed on the grant of planning permission. The planning application was also objected to but granted.
9. Some criticism was levelled at the Local Area Risk Assessment (LARA) lodged with the application. Having traded successfully at 19 Market Place, Sheffield since 2013 the applicant did not anticipate this level of opposition in relation to extending his existing shop to offer better facilities. As a result of the complaint raised a revised LARA has been prepared and is attached. In addition the applicant has sought specialist legal advice and reviewed all of the issues raised.
10. The licensing Department of South Yorkshire Police have reviewed the application and have asked for the following conditions to be attached to the licence and as a responsible operator the applicant has agreed:

1. *A digital CCTV system installed to Home Office Guidance standards and maintained in a good working condition to ensure continuous quality of image capture and retention where:*
 - (a) *Cameras to be sited to observe the entrance doors from the inside.*
 - (b) *Cameras on the entrances must capture full frame shots of the heads and shoulders of all people entering the premises i.e. capable of identification.*
 - (c) *Cameras must be sited to cover all areas to which the public have access including any outside smoking area.*
 - (d) *Cameras must record whilst members of the public are frequenting the premises.*
 - (e) *CCTV system to be able to provide a linked recording of the date, time of any image*

- (f) CCTV system to have a monitor to review images and recordings*
 - (g) a member of staff trained in operating CCTV to be at the venue during times open to the public*
 - (h) CCTV footage must be kept for 31 days.*
 - (i) CCTV equipment must have a suitable export method, e.g. CD/DVD writer / USB*
 - (j) CCTV footage must be available within a reasonable time to Police on request.*
 - (k) The CCTV footage will be controlled and kept in a secure environment to prevent tampering or unauthorised viewing. A record will be kept of who has access the system, the reason why and when.*
- 2. An incident log shall be kept at the premises, it will be in a hardback durable format handwritten at the time of the incident or as near to as is reasonable and made available on request to the Police, which will record the following:*
- (a) all crimes reported to the venue*
 - (b) all ejections of patrons*
 - (c) any complaints received*
 - (d) any incidents of disorder*
 - (e) any faults in the CCTV system*
- 3. To acquire a suitable number of radio sets for the premises and to take the CCRAC Radio Scheme (City Centre Retail Against Crime) into use at all times when trading, and continue to be a user whilst this system is in use within Sheffield.*

11. If the licence is granted, not only will there be superior facilities for those who enjoy using an independent bookmaker's shop, but there will be these conditions attached to the licence. There will be no increase in the number of FOBTs at the premises as these are capped at a maximum of 4 in each licensed betting shop.

BACKGROUND

12. Betting premises are subject to a high degree of regulation to ensure they support the licensing objectives.
- Premises and their management and operation are subject to the Gambling Commission's extensive Licence Conditions and Codes of Practice applicable to betting premises operating licences.
 - Premises licences are subject to mandatory conditions which are deemed as being appropriate for premises of this nature.
 - This is what the primary legislation believes is needed for operators to be able to trade responsibly.

13. Betextra ensure compliance with the Licence Conditions and Codes of Practice through:

- Robust policies.
- Training/refresher-training of all staff.

- Mystery shopping.
- Venue audits.
- Offer to engage with community/neighbourhood groups.
- Offer to engage with local ward councillors.
- Strong local management oversight and support.

Children

14. No under 18s are permitted. There will be prominent Think 21 signage in the premises and those appearing under 21 will be requested to provide a valid photographic ID.

Vulnerable people.

15. The applicant is sensitive to the presence of vulnerable people in the area. The applicant will ensure that alcohol/drugs/intoxication is not permitted on the premises. Sufficient staff will be at the premises to provide oversight of customers and gambling. They will engage with the customers. There will be CCTV throughout the premises and social responsibility messaging. Significant information will be provided to help with problem gambling and liaison with gambling care providers. The Local Area Risk Assessment will regularly be updated to incorporate any changes in local risk.

16. It is important to note that Betextra have traded in this location for over ten years without issue. The owners and staff at the premises are very aware of any localised issues and follow best practice with assessing vulnerable people. The benefit of being an owner-operator independent is that the vast majority of customers are known to staff which enables betting patterns to be carefully monitored.

17. Throughout its trading history, it has been determined by the Gambling Commission (due to the grant of an operating licence) and by each Licensing Authority with the grant of each premises licence, that the company operates in a way which is consistent with the licensing objectives in relation to the prevention of children and vulnerable people from being put at risk. No applications have ever been refused, and the company has not seen any review of their premises licences.

SHEFFIELD CITY COUNCIL STATEMENT OF GAMBLING ACT POLICY **2022-2024**

18. Para 2.4 Applications The Act places a duty on the Licensing Authority to aim to permit the use of premises for gambling in so far as the Authority thinks the application is in accordance with:
- the Codes of Practice,
 - the Commission’s Guidance,
 - this Statement of Principles; and
 - where the application is reasonably in accordance with the licensing objectives.
19. Para 3.7 Integration with Planning The Licensing Authority recognises that there should be a clear separation of the Planning and Licensing Functions. Licensing applications will not be a re-run of the planning application. While there is no obligation for an applicant to have planning permission before applying for a licence, it is strongly recommended that planning use be obtained first so that proper consideration can be given to the impact the use of the premises will have on the surrounding amenities, character and locality.
20. **PART 4 Objective 1: Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime.**

Anyone applying to the Licensing Authority for a premises licence will be required to hold an operating licence from the Gambling Commission before a licence can be issued. Therefore, the Licensing Authority will not generally be concerned with the suitability of an applicant and where concerns about a person’s suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.

Sheffield City Council places considerable importance on the prevention of crime and disorder, and the Licensing Authority will fulfil its duty under the Crime and Disorder Act 1998. A high standard of control is therefore expected to be exercised over licensed premises.

4.2 Policy – Objective 1 The Licensing Authority will, when determining applications, consider whether the grant of a Premises Licence will result in an increase in crime and disorder or have any other impact in relation to this objective.

The following are considerations when determining this and would normally be expected to be in your risk assessments:

- The location of the premises (see location policy at Part 5)
- Whether the premises has a history of crime and disorder or has been associated with crime and/or disorder and whether there are potential future risks of this occurring (see location policy at Part 5).
 - o The likelihood of any violence, public nuisance, public order or other crimes and policing problems if the licence was granted.
- The design, layout and fitting of the premises
 - o Has it been designed to minimise conflict and opportunities of crime and disorder?
 - o Physical security features installed in the premises. This may include matters such as the position of the cash registers or the standard of CCTV that is installed
- What sufficient management measures are proposed and what other measures have been considered.

- Local supporting strategies and schemes including those listed in Part 3 of this document to be assessed:
 - o Applicants will be expected to detail how these have been addressed and promoted in regards to this licensing objective in their risk assessments
 - o It is recommended that applicants seek advice from South Yorkshire Police when addressing this issue as well as taking in to account local Planning and Transport Policies, Tourism, Cultural and Crime Prevention Strategies. Information relating to crime reduction is available at the South Yorkshire Police website www.southyorks.police.uk.

Conditions may be attached to Premises Licences in order to be reasonably consistent with this licensing objective, and will, so far as possible, reflect local crime prevention strategies (also see conditions section 10.4).

All applicants will be expected to demonstrate to the satisfaction of the Licensing Authority how they intend to be reasonably consistent with this objective. The steps to be taken in regards to this objective will be a matter for each applicant to consider, depending upon the nature of the premises and the licensable activities for which a licence is sought. These steps will therefore differ from one premise to another and each application for a Premises Licence will be considered upon its own individual merits.

Determining an opposed application

The Licensing Authority considers South Yorkshire Police to be the main source of advice on crime and disorder. Attention will be given to the consideration provided in the application on the above factors. Where an applicant has omitted information on the above, the Licensing Committee will ask questions of the applicant on such and will consider attaching appropriate conditions.

21. Objective 2: Ensuring that gambling is conducted in a fair and open way.

This Licensing Authority has noted that the Gambling Commission states that it generally does not expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. This is because this will usually be concerned with either the management of the gambling business (and therefore subject to the operating licence), or the suitability and actions of an individual (and therefore subject to a personal licence). These permissions both fall within the remit of the Gambling Commission.

22. Objective 3: Protecting children and other vulnerable persons from being harmed or exploited by gambling.

23. The following would normally be expected to be included and addressed in your risk assessments which in turn will be used in determining your application:

- The location of the premises (see location policy at Part 5) e.g.:
 - o Are the premises located close to premises frequented by children or other vulnerable persons? E.g. Schools, colleges, universities, substance misuse treatment services, youth services, domestic abuse support services, children's play areas; are the premises near to

social housing or a treatment centre for gambling addicts, hospitals or residential homes for children or vulnerable people etc. (See local area profiling)

o Is a gambling premises suitable to be located there?

o Are there sufficient controls, procedures and conditions in place to be reasonably consistent with this licensing objective?

- Whether any promotional materials or advertising associated with the premises could encourage the use of the premises by children or vulnerable persons.

- Whether there are sufficient management measures in place to ensure adequate training and refresher training for staff is in place to protect children, young persons and vulnerable persons who may be harmed or exploited by gambling, including safeguarding awareness training. Safeguarding training and advice is available by contacting the Safeguarding Licensing Manager at SCSPsafeguardinglicensing@sheffield.gov.uk.

- The following measures are requirements that operators must address in Sheffield to be reasonably consistent with this licensing objective; these would include but not be limited to the following:

o a risk assessment for safeguarding children and vulnerable people at gambling premises to be undertaken with reference to the Sheffield Children Safeguarding Partnership risk assessment guidance available at

[https://www.safeguardingsheffieldchildren.org/sscb/children-licensed-](https://www.safeguardingsheffieldchildren.org/sscb/children-licensed-premises/the_gambling-act-2005)

[premises/the_gambling-act-2005](https://www.safeguardingsheffieldchildren.org/sscb/children-licensed-premises/the_gambling-act-2005). The outcome of the risk assessment should inform staff training and the operating policy.

o a member of staff to be designated to have lead responsibility for the operating systems relating to the protection of children and other vulnerable persons (for a description of this role refer to https://www.safeguardingsheffieldchildren.org/sscb/children-licensed-premises/the_gambling-act-2005);

o a recognised Proof Of Age Scheme to be operated in all areas of the premises where alcohol and other age restricted goods are on sale and at entrances to areas of the premises which give access to adult gambling facilities;

o staff shall receive induction and refresher training in relation to procedures and operating systems for the protection of children and vulnerable people. Staff training records shall be maintained and be available for inspection at the reasonable request of the Responsible Authorities;

o a written record shall be maintained of all staff interventions that are made with customers for the protection of children and other vulnerable persons including: refusals of service or admission, the provision of self-help information; membership records for the self-exclusion scheme including photographic ID; records of interventions with parents/carers who fail to behave responsibly at the premises; records of persons barred.

o signage to be displayed in areas where children are admitted regarding all restrictions

o A customer charter promoting the principles of acceptable behaviour at the premises including that adults must supervise their children at all times;

o Performance monitoring and self-testing procedures should be in place to identify training needs and staff competence in relation to age verification.

o Staff should receive safeguarding training to help them to recognise and respond to individuals at risk of gambling related harm. Staff may benefit from training that includes the impact of harmful gambling, the benefits of taking a trauma informed approach to engage with customers and how to manage confrontation. For further information about gambling related safeguarding training, contact the Safeguarding Licensing Manager at SCSPsafeguardinglicensing@sheffield.gov.uk.

- o To protect children and vulnerable adults from gambling related harm, Sheffield City Council recommends that licensed Operators work in partnership with local services such as Public Health and the Safeguarding Partnerships, to provide information about welfare and treatment services to customers. This may include local services distributing leaflets, posters, contact cards, self-screening tools (Lie/Bet) or other materials, free of charge, via Operators, to reduce the risk of gambling related harm.
- o Measures to be in place to prevent underage or vulnerable persons accessing online gambling if offered at a premise.
- o areas for adult gambling must be clearly segregated and physically supervised to prevent underage admission.
- o Signage must be displayed to promote all restrictions including age restricted games.
- o self-help notices and literature should be discretely accessible to customers;
- o staff to be trained to recognise vulnerable customers (for example, when people appear to be under duress when placing a bet or who appear to lack capacity (meaning they are unable at the time to understand the risks and likely implications of gambling) such as becoming agitated, aggressive, attempting to breach agreed limits or self-exclusion agreements; engaging in superstitious type rituals);
- o Operators are encouraged to establish links with the Sheffield Children Safeguarding Partnership as a Responsible Authority under the Gambling Act 2005 and with the Sheffield Adult Safeguarding Partnership as an advisory service regarding vulnerable adults.

THE LAW

24. As an experienced licensing sub-committee with legal advice will be aware, the Gambling Act sets out a different approach to the question of grant than the Licensing Act 2003. The approach relevant to gambling is detailed at Section 153 of the Gambling Act 2005:

*“In exercising their functions under this Part, a licensing authority **shall aim to permit** the use of premises for gambling in so far as the authority 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 statement of licensing policy] (subject to (a) to (c)).”

25. The following points should be noted:

- The test is mandatory: “a licensing authority shall ...”
- The obligation to “*aim to permit*” where (a) – (d) are satisfied is described by the Gambling Commission in its Guidance as “*the licensing authority’s primary obligation*”
- As the Guidance states: “Any refusal should be for reasons which demonstrate that the licensing objectives will not or are unlikely to be met”. That means demonstrated by evidence.

- Conversely, the following considerations are legally irrelevant to the determination of an application for a premises licence:
- A dislike of gambling.
- A general notion that it is undesirable to allow gambling premises in an area.
- Moral or ethical objections to gambling.
- The demand for gambling premises (see s 153 Gambling Act 2005). As such, objections which state that there are enough gambling establishments in a locality are irrelevant to licensing.
- Planning considerations (see section 210 Gambling Act 2005).
- Nuisance (see Guidance by Gambling Commission).

REPRESENTATIONS

26. I will deal with the representations made in oral submissions focused upon the statutory test as set out above in this note, and against Sheffield Statement of Principles for the Gambling Act.

CONCLUSIONS

27. This is an application to extend the facilities of an existing independent operator who has traded in this location since 2013. In that time the number of licensed premises in central Sheffield has reduced by 7, from 15 to 8. Notwithstanding those closures the applicant is keen to invest in this locality to offer better facilities to his largely repeat/regular customers.

28. The evidence before the licensing sub-committee:

- He is experienced locally
- He trades a further 5 shops without issue
- He has had no issues with the Gambling Commission
- He has had no issues with the Responsible authorities in Sheffield or other locations where he has operated
- He has a long history of promoting the licensing objectives
- He has offered conditions to be attached to the licence as requested by South Yorkshire Police
- He has offered to work with those who have opposed the extension of the premises
- The application is in accordance with the LCCP issued by the Gambling Commission
- The application is in accordance with the Guidance issued by the Gambling Commission
- The application is in accordance with the local statement of policy

- He has secured planning permission for the extension to his premises

29. In all of those circumstances there are no reasons why the licensing sub-committee should depart from S153 of the Gambling Act where it is asked to aim to permit the grant of the licence.

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