

Committee : Licensing Sub-Committee	Date:	Classification: Unclassified	Report No. <i>LSC012/809</i>	Agenda Item No.
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Report of: Colin Perrins Head of Trading Standards and Environmental Health (Commercial) Originating Officer: Mohshin Ali Licensing Officer	Title: Gambling Act 2005 Application for a new and variation of Premises Licence for Agora, 87 Whitechapel High Street, London E1 7QX Ward affected: Spitalfields and Banglatown
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1.0 Summary

Applicant	Frankice (Golders Green) Ltd
Name	Agora
Address of Premises:	87 Whitechapel High Street, London E1 7QX
Licence sought:	New and Variation of Premises Licence <ul style="list-style-type: none"> • Adult Gaming Centre
Representations:	Licensing Authority

2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
File Only		Mohshin Ali 020 7364 5498

3.0 **Background**

- 3.1 This is an application for a new and variation of Premises Licence for Agora, 87 Whitechapel High Street, London E1 7QX. Both applications are for an Adult Gaming Centre.
- 3.2 A copy of the existing licence is enclosed as **Appendix 1**.
- 3.3 A copy of the variation application is enclosed as **Appendix 2**. The applicant has described the variation as 'subdivision of premises'.
- 3.4 A copy of the new application is enclosed as **Appendix 3**.
- 3.5 A map showing the relevant premises is included as **Appendix 4**.

4.0 **Licensing Policy for Gambling, and Gambling Commission advice.**

- 4.1 The Council has adopted a licensing policy in relation to gambling and this is available from the Licensing Section, and at the hearing. The policy was adopted by the Full Council on the 13 December 2006.
- 4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 4.3 The Gambling Commission has issued guidance to Licensing Authorities which will also be available at the hearing. It can also be viewed at www.gamblingcommission.gov.uk. Relevant Sections can be found within the licensing officer's report.
- 4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the commission's advice, or has developed it further.

5.0 **Representations**

- 5.1 This hearing is required by the gambling Act 2005 because a representation has been made by the Licensing Authority.
- 5.2 The representation relates to:
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 5.3 Please see **Appendix 5** for the representation of the Licensing Authority.
- 5.4 The application was required to be advertised in a local newspaper and by a poster.

5.5 The licensing objectives are:

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

Members may care to note that a moral objection to gambling is not relevant to the decision making process.

5.6 There are time limits to any representations. These are contained in the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007.

6.0 Licensing Officer Comments

6.1 The Licensing Section is also a responsible authority but does not wish to make to make any representations. The following is intended simply to advise Members of the relevant aspects of the Gambling commission's advice and the Borough Gambling Policy. Members may depart from the advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

6.2 Guidance issued to Licensing Authorities by the Gambling Commission

- Gambling Commission advice on the Principles to be applied when considering applications (**Appendix 6**)
- Gambling Commission Advice on Protecting Children and Other Vulnerable Persons from being Harmed or Exploited by Gambling (**Appendix 7**)
- Gambling Commission Advice on Moral Objections (**Appendix 8**)
- Gambling Commission Advice on Premises Licences (**Appendix 9**)
- Gambling Commission Advice on Adult Gaming Centres (**Appendix 10**)

6.3 The Gambling Policy of the London Borough of Tower Hamlets

- London Borough of Tower Hamlets Gambling Policy Definition of vulnerable person (1.46) (**Appendix 11**)
- London Borough of Tower Hamlets Gambling Policy relating to Gaming Machines (**Appendix 12**)

6.4 There are mandatory conditions which must apply to this application (these are explained in (**Appendix 10**)). There are also default conditions, which will apply in this case as no dis-application has been made by the applicant. This concerns hours, and again see **Appendix 10**.

6.5 The Gambling Commission has sent out a consultation document relating to definition of premises on 25 April 2008. Please see **Appendix 13**.

6.6 Following this, the London Licensing Managers Forum has sent a letter to the Gambling Commission on the 6th June 2008. The Gambling Commission has responded to letter on 27th June 2008. Both letters are included in **Appendix 14**.

7.0 **Legal Comments**

7.1 The Council's legal officer will give advice at the hearing.

8.0 **Finance Comments**

8.1 There are no financial implications in this report.

9.0 Appendices

- Appendix 1** A copy of the existing licence
- Appendix 2** A copy of the variation application
- Appendix 3** A copy of the new application
- Appendix 4** Maps of the premises
- Appendix 5** Representation of the Licensing Authority
- Appendix 6** Gambling Commission advice on the Principles to be applied when considering applications
- Appendix 7** Gambling Commission Advice on Protecting Children and Other Vulnerable Persons from being Harmed or Exploited by Gambling
- Appendix 8** Gambling Commission Advice on Moral Objections
- Appendix 9** Gambling Commission Advice on Premises Licences
- Appendix 10** Gambling Commission Advice on Adult Gaming Centres
- Appendix 11** London Borough of Tower Hamlets Gambling Policy
Definition of vulnerable person (1.46)
- Appendix 12** London Borough of Tower Hamlets Gambling Policy
relating to Adult Gaming Centres
- Appendix 13** Gambling Commission consultation document relating to
definition of premises
- Appendix 14** London Licensing Managers Forum's letter and Gambling
Commission's response

Appendix 1



TOWER HAMLETS

Licence / Registration

Certificate Number

12305

No: 12305

Adult Gaming Centre

**This licence is issued under section 164 of the
Gambling Act 2005 by**

The London Borough of Tower Hamlets

Part 1 – Details of person to whom licence is issued

This premises licence is issued to:

Ablethird Ltd

of the following address:

Unit 3 Otterspool Way Watford WD25 8HL

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

Part 2 – Details of the premises in respect of which the licence is issued

Facilities for gambling may be provided in accordance with this licence on the following premises:

87 Whitechapel High Street London E1 7QX

FOR OFFICE USE

Receipt Number
153530

Fee Paid
1300

Fee Req.

Date
23/7/07

Initial
EG

Part 3 – Premises Licence Details

This licence came into effect on:

1 September 2007

This licence is of unlimited duration

The following conditions have been attached to the licence by the issuing authority under section 169(1)(a) of the Gambling Act 2005:

None

The following conditions, which would otherwise attach to the licence by virtue of regulations made under section 168 of the Gambling Act 2005, have been excluded by the issuing authority under section 169(1)(b) of that Act:

None

A scale plan is attached as an annex to this licence

Signed on behalf of the issuing licensing authority

Appendix 2

Application to vary a premises licence under the Gambling Act 2005

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records.

Part 1 – Applicant Details

If you are an individual, please fill in Section A. If the application is being made on behalf of an organisation (such as a company or partnership), please fill in Section B.

Section A

Individual applicant

1. Title: Mr Mrs Miss Ms Dr Other (please specify)

2. Surname:

Other name(s):

[Use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence]

3. Applicant's address (home or business – *[delete as appropriate]*):

21 MAY 2009

Postcode:

4(a) The number of the applicant's operating licence (as set out in the operating licence):

4(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

5. Tick the box if the application is being made by more than one person.

[Where there are further applicants, the information required in questions 1 to 4 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Section B

Application on behalf of an organisation

FRANKILE (GOLDERS GREEN) LTD.

6. Name of applicant business or organisation:

[Use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence.]

7. The applicant's registered or principal address:

UNIT 3.
Othenspool Way,
Watford
Herts

Postcode:

WD25-8HL.

8(a) The number of the applicant's operating licence (as given in the operating licence):

000- 002287- N- 103907- 001

8(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

9. Tick the box if the application is being made by more than one organisation.

[Where there are further applicants, the information required in questions 6 to 8 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Part 2 - Premises Details

10. Trading name used at licensed premises:

AGORA

11. Give the address of the premises or, if none, give a description of the premises and its location. Where the premises are a vessel, give the place indicated in the premises licence as the place in the licensing authority's area where the vessel is wholly or partly situated. Where possible this should include an address with a postcode:

87 Whitechapel High A.
Luton.

Postcode:

E1-7QX.

12. Telephone number at premises (if known):

N/A

13. Type of premises licence to be varied:

Regional Casino

Large Casino

Small Casino

Converted Casino

Bingo

Adult Gaming Centre

Betting (track)

Betting (other)

Family Entertainment Centre

14. Premises licence number (if known):

12305.

15. If you are making this application alongside an application for transfer or reinstatement of the premises licence into your name, please give the name of the current licence holder as it appears on the premises licence (if known):

Surname:

Other name(s):

Part 3 – Details of variations applied for

16(a) Please give details of any variation which is being applied for. Where the application includes an application to exclude or vary a condition of the premises licence, identify the relevant condition here (unless it relates to hours of operation which are dealt with in questions 16(b) and 16(c)):

Subdivision of premises

16(b) Do you want the licensing authority to exclude or vary a condition of the licence so that the premises may be used for longer periods than would otherwise be the case?

Yes/No [delete as appropriate]

16(c) If the answer to question 16(b) is yes, please complete the table below to indicate the times when you want the premises to be available for use under the premises licence.

	Start	Finish	Details of any seasonal variation
Mon	hh:mm	hh:mm	
Tue			
Wed			
Thurs			
Fri			
Sat			
Sun			

17. Please indicate any particular date on which you want the variation to take effect if approved:
(dd/mm/yyyy) 26/05/2008

18. Please set out any other matters which you consider to be relevant to your application:

N/A.

Part 4 – Declarations and Checklist (Please tick as appropriate)

- We confirm that, to the best of my/ our knowledge, the information contained in this application is true. ~~It~~ We understand that it is an offence under section 342 of the Gambling Act 2005 to give information which is false or misleading in, or in relation to, this application.
- We confirm that the applicant(s) have the right to occupy the premises.
- Checklist:
 - Payment of the appropriate fee has been made/is enclosed
 - A plan of the premises is enclosed
 - The existing premises licence is enclosed
 - The existing premises licence is not enclosed, but the application is accompanied by –
 - A statement explaining why it is not reasonably practicable to produce the licence and,
 - An application under the Section 190 of the Gambling Act 2005 for the issue of a copy of the licence
 - ~~I~~we understand that if the above requirements are not complied with the application may be rejected
 - ~~It~~ we understand that it is now necessary to advertise the application and give the appropriate notice to the responsible authorities

Part 5 – Signatures

19. Signature of applicant or applicant's solicitor or other duly authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Matthew Deith

Print Name:

MATTHEW DEITH

Date: 19/05/2008 (dd/mm/yyyy)

Capacity: Director

20. For joint applications, signature of 2nd applicant, or 2nd applicant's solicitor or other authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Print Name:

Date: (dd/mm/yyyy)

Capacity:

[Where there are more than two applicants, please use an additional sheet clearly marked "Signature(s) of further applicant(s)". The sheet should include all the information requested in paragraphs 19 and 20.]

[Where the application is to be submitted in an electronic form, the signature should be generated electronically and should be a copy of the person's written signature.]

Part 6 – Contact Details

21(a) Please give the name of a person who can be contacted about the application:

Matthew Deith

21(b) Please give one or more telephone numbers at which the person identified in question 21(a) can be contacted:

07957 - 135216

22. Postal address for correspondence associated with this application:

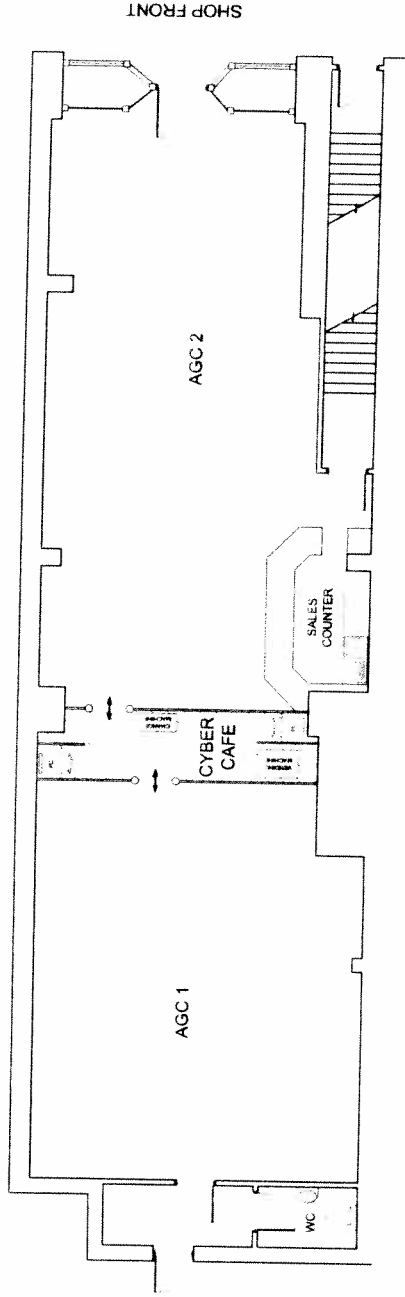
Unit 3

Othorpool Way,

Watford

Postcode: WD25-8HL Herts

23. If you are happy for correspondence in relation to your application to be sent via e-mail, please give the e-mail address to which you would like correspondence to be sent:



GROUND FLOOR PLAN

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44 Able Design Avenue
Northampton
NN3 5JL
Tel: 01604 644008
Fax: 01604 213008
e-mail: info@abledesign.com

Client: ACCRA GAMING CENTRES LTD
Site: 87 WHITECHAPEL HIGH STREET
ALBANYE - LONDON
Title: AGC GROUND FLOOR PLAN

Issue Purpose: FOR INFORMATION
Rev/Job No: WHITECHAPEL

Project No:	3003-ALD-87-AGC
Revision No:	A
Drawn:	
Checked:	
Date:	19/04/08
Scale:	1:100
Dimensions in mm:	
Sheeting No.:	

A3

Rev:		Date:	
A	ORIGINAL ISSUE	19/04/08	

Appendix 3

**Application for a premises licence
under the Gambling Act 2005 (standard form)**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records.

Where the application is—

- In respect of a vessel, or
- To convert an authorisation granted under the Betting, Gaming and Lotteries Act 1963 or the Gaming Act 1968,

the application should be made on the relevant form for that type of premises or application.

Part 1 – Type of premises licence applied for

Regional Casino

Large Casino

Small Casino

Bingo

Adult Gaming Centre

Family Entertainment Centre

Betting (Track)

Betting (Other)

Do you hold a provisional statement in respect of the premises? Yes No

If the answer is "yes", please give the unique reference number for the provisional statement (as set out at the top of the first page of the statement):

Part 2 – Applicant Details

If you are an individual, please fill in Section A. If the application is being made on behalf of an organisation (such as a company or partnership), please fill in Section B.

Section A

Individual applicant

21 MAY 2009

1. Title: Mr Mrs Miss Ms Dr Other (please specify)

2. Surname: _____ Other name(s): _____

[Use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence]

3. Applicant's address (home or business – *[delete as appropriate]*):

Postcode:

4(a) The number of the applicant's operating licence (as set out in the operating licence):

4(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

5. Tick the box if the application is being made by more than one person.

[Where there are further applicants, the information required in questions 1 to 4 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Section B

Application on behalf of an organisation

6. Name of applicant business or organisation: **FRANKICE (GOLDERS GREEN) Ltd**
[Use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence.]

7. The applicant's registered or principal address:

Unit 3
O'Herspool Way
Watford
Herts

Postcode:

WD15-8HL.

8(a) The number of the applicant's operating licence (as given in the operating licence):

000-002287-N-103907-001

8(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made:

9. Tick the box if the application is being made by more than one organisation.

[Where there are further applicants, the information required in questions 6 to 8 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".]

Part 3 - Premises Details

10. Proposed trading name to be used at the premises (if known):

AGORA.

11. Address of the premises (or, if none, give a description of the premises and their location):

87 Whitechapel High St.
London

Postcode:

E1-7QX.

12. Telephone number at premises (if known):

N/A

13. If the premises are in only a part of a building, please describe the nature of the building (for example, a shopping centre or office block). The description should include the number of floors within the building and the floor(s) on which the premises are located.

GROUND FLOOR.

14(a) Are the premises situated in more than one licensing authority area?

~~Yes~~/No [delete as appropriate]

14(b). If the answer to question 14(a) is yes, please give the names of all the licensing authorities within whose area the premises are partly located, **other than the licensing authority to which this application is made:**

N/A

Part 4 – Times of operation

15(a). Do you want the licensing authority to exclude a default condition so that the premises may be used for longer periods than would otherwise be the case? ~~Yes~~/No [delete as appropriate] [Where the relevant kind of premises licence is not subject to any default conditions, the answer to this question will be no.]

15(b). If the answer to question 15(a) is yes, please complete the table below to indicate the times when you want the premises to be available for use under the premises licence.

	Start	Finish	Details of any seasonal variation
Mon	hh:mm	hh:mm	
Tue			
Wed			
Thurs			
Fri			
Sat			
Sun			

16. If you wish to apply for a premises licence with a condition restricting gambling to specific periods in a year, please state the periods below using calendar dates:

Part 5 – Miscellaneous

17. Proposed commencement date for licence (leave blank if you want the licence to commence as soon as it is issued): (dd/mm/yyyy)

18(a). Does the application relate to premises which are part of a track or other sporting venue which already has a premises licence? ~~Yes~~/No [delete as appropriate]

18(b). If the answer to question 18(a) is yes, please confirm by ticking the box that an application to vary the main track premises licence has been submitted with this application.

19(a). Do you hold any other premises licences that have been issued by this licensing authority? Yes/ ~~No~~ [delete as appropriate]

19(b). If the answer to question 19(a) is yes, please provide full details:

211/213 Whitechapel High Rd.
London
E1 - 1DE.

20. Please set out any other matters which you consider to be relevant to your application:

N/A

Part 6 – Declarations and Checklist (Please tick)

I/ We confirm that, to the best of my/ our knowledge, the information contained in this application is true. I/ We understand that it is an offence under section 342 of the Gambling Act 2005 to give information which is false or misleading in, or in relation to, this application.

I/ We confirm that the applicant(s) have the right to occupy the premises.

Checklist:

- Payment of the appropriate fee has been made/is enclosed
- A plan of the premises is enclosed
- I/ we understand that if the above requirements are not complied with the application may be rejected
- I/ we understand that it is now necessary to advertise the application and give the appropriate notice to the responsible authorities

Part 7 – Signatures

21. Signature of applicant or applicant's solicitor or other duly authorised agent. If signing on behalf of the applicant, please state in what capacity:

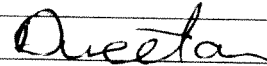
Signature:



Print Name: MATTHEW DEITH

Date: 19/05/2008 (dd/mm/yyyy)

Capacity:



22. For joint applications, signature of 2nd applicant, or 2nd applicant's solicitor or other authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:

Print Name:

Date:

(dd/mm/yyyy)

Capacity:

[Where there are more than two applicants, please use an additional sheet clearly marked "Signature(s) of further applicant(s)". The sheet should include all the information requested in paragraphs 21 and 22.]

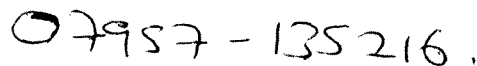
[Where the application is to be submitted in an electronic form, the signature should be generated electronically and should be a copy of the person's written signature.]

Part 8 – Contact Details

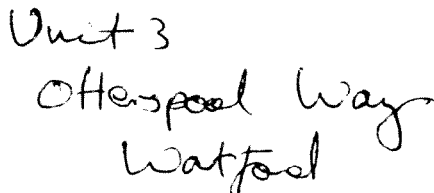
23(a) Please give the name of a person who can be contacted about the application:



23(b) Please give one or more telephone numbers at which the person identified in question 23(a) can be contacted:

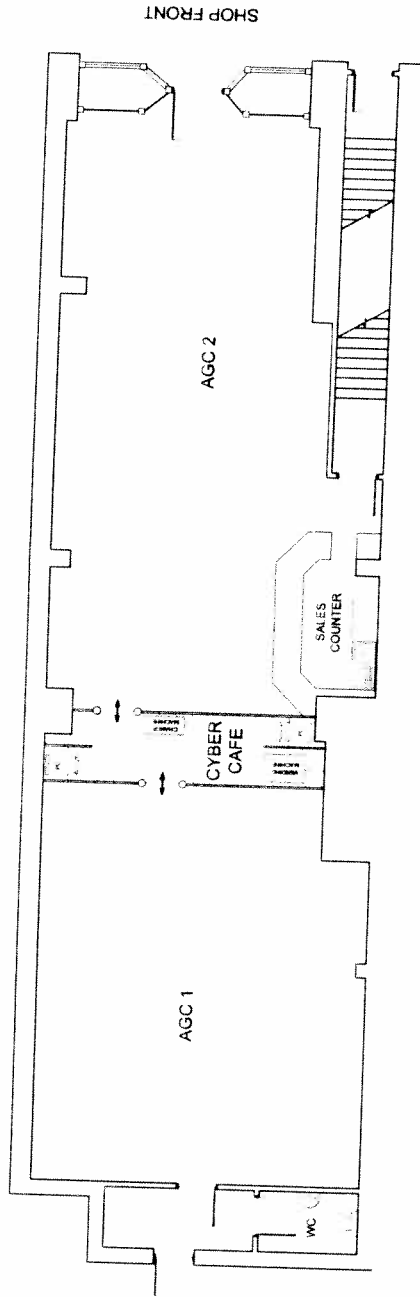


24. Postal address for correspondence associated with this application:



Postcode: WD25-8HL Herts

25. If you are happy for correspondence in relation to your application to be sent via e-mail, please give the e-mail address to which you would like correspondence to be sent:

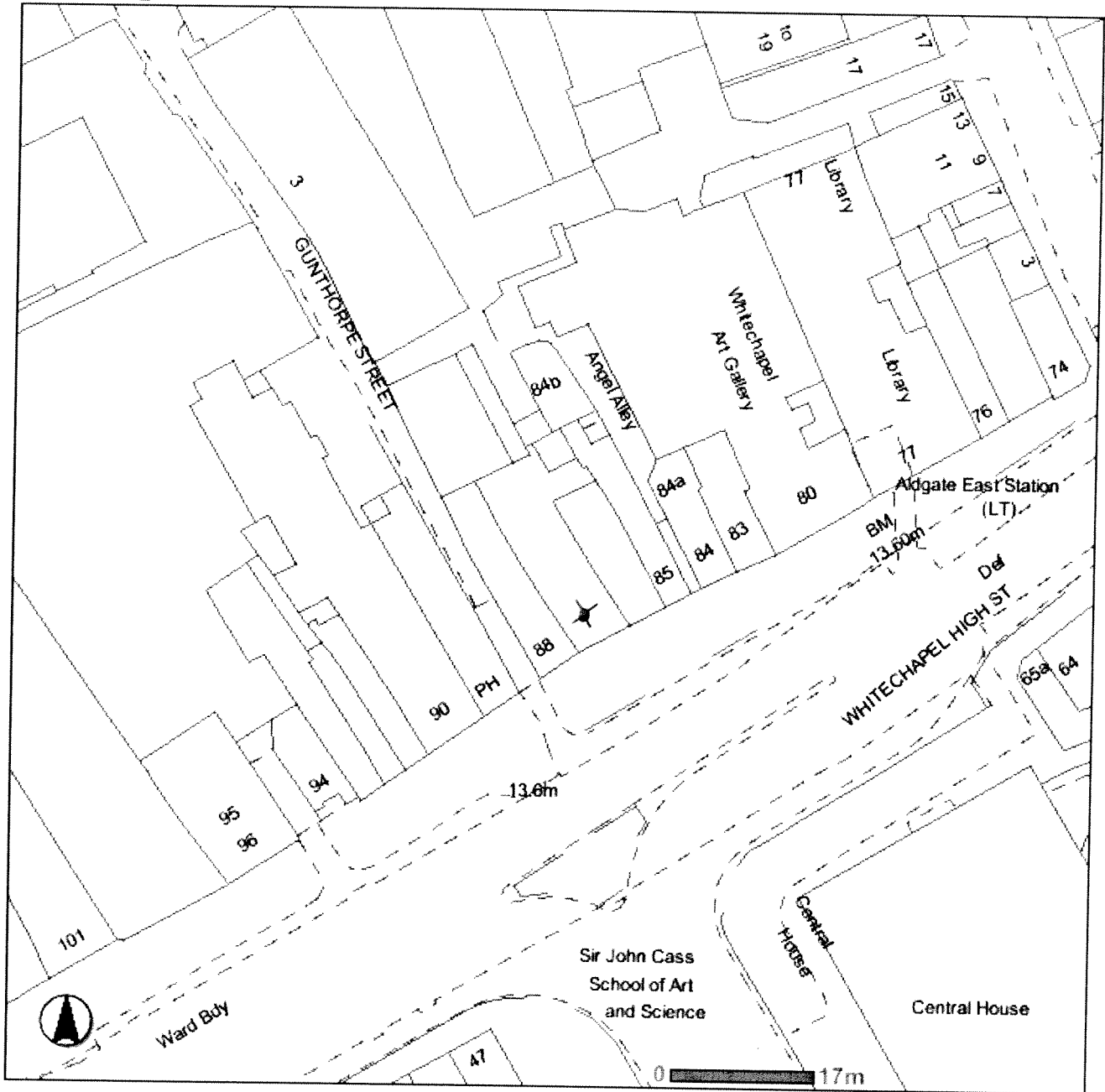


GROUND FLOOR PLAN

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	ORIGINAL ISSUE Description: [] Date: 11/09/08 Scale: []								

Appendix 4

Map



Scale 1:750

Map of:

Agora

Notes:

87 Whitechapel High Street

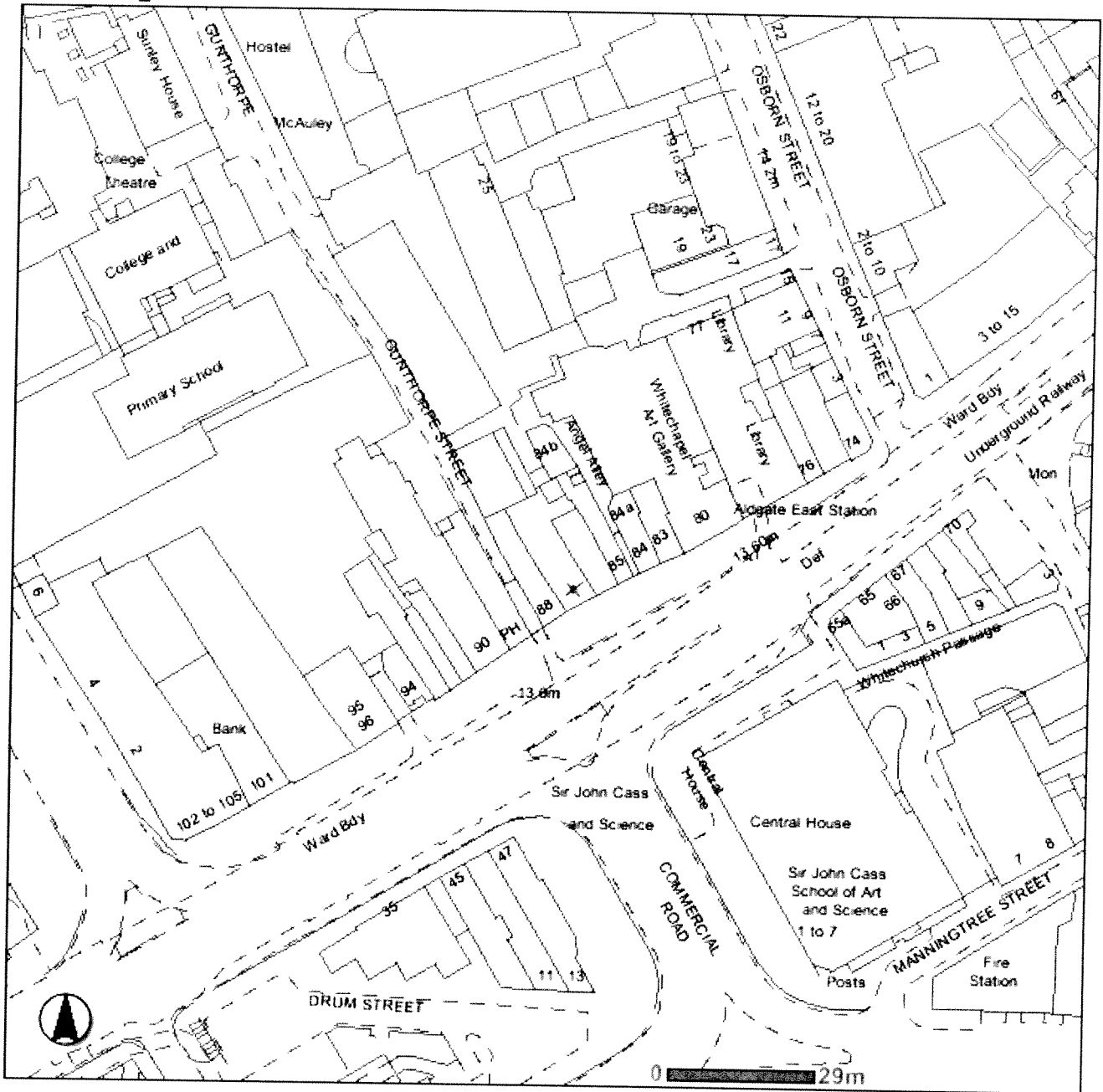
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Map



Scale 1:1250

Map of:

Agora

Notes:

87 Whitechapel High Street

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Appendix 5

**Communities, Localities & Culture
Trading Standards and Environmental
Health (Commercial)**

Matthew Deith
Frankice (Golders Green) Ltd
Unit 3
Otters Pool Way
Watford
Herts
WD25 8HL

Head Of Service **Colin Perrins**

Licensing Section
Mulberry Place (AH)
PO Box 55739
5 Clove Crescent
London E14 1BY

11th June 2008

Tel **020 7364 5024**
Fax **020 7364 0863**
Enquiries to **John Cruse**
Email john.cruse@towerhamlets.gov.uk

Your reference
My reference

Dear Mr Deith,

RE: Gambling Act 2005 and 87 Whitechapel High Street and 211-213 Whitechapel Road, London

Thank you for your two applications received on the 21/05/2008 and the 28/05/2008. I have now had the opportunity to read the Gambling Commission advice of the 25th April 2008 (Adv 08/08) which deals, in part with the definition of a premises.

As I am sure you are aware the Gambling Commission advice refers to the "Explanatory Memorandum to the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007.

I am currently minded to object to both of the above applications, because it appears to me that it is covered by para.7.6 of the Explanatory Memorandum I have already referred to as follows "We wanted to ensure that operators do not circumvent the rules governing the maximum number of gaming machines of category B and above ..."

If I can be of any further help please let me know.

Yours sincerely,



John Cruse
Team Leader, Licensing

M:\Licensing\Word97\GamblingAct05\87WhitechapelHigh St.211-213WhitechapelRd.doc

Corporate Director
Communities, Localities & Culture
Stephen Halsey



Environment & Culture

To M Ali, Licensing Officer
From John Cruse
Date 13 June 2008

Trading Standards and Environmental
Health (Commercial)

Licensing Section
Mulberry Place (AH)
PO Box 55739
5 Clove Crescent
London E14 1BY

Regarding **Adult Gaming Centre
Applications**

Tel 020 7364 5024
Fax 020 7364 0863

www.towerhamlets.gov.uk

Representation concerning applications to vary and a new licence under the Gambling Act 2005 for 87 Whitechapel High Street London E1 7QX and 211/213 Whitechapel Road E1 1DE

The licensing authority is a responsible authority under the Gambling Act 2005, and in that capacity I am objecting to the application for a new and varied licence for both the above premises.

The nature of my objection to both premises is the same so for the sake of simplicity I am writing one representation which covers both applications.

In both cases the licensing objective is the protection of the vulnerable.

In relation to the licensing objective of protecting the vulnerable I would make the following points:

1) It was the expressed intention of parliament to limit customer exposure to Category B gaming machines. **Appendix A** is a copy of Section 172 of the Gambling Act 2005. Section 172 (1) (a) states as follows:

(1) An adult gaming centre premises licence shall, by virtue of this section, authorise the holder—

(a) to make up to four Category B gaming machines available for use on the premises,

2) There are issues involved in slot machine gambling which has led to this restriction, in order to protect vulnerable gamblers. Slot machine gambling is of particular concern in relation to protecting the vulnerable. See **Appendix B**.

3) The essence of the applications before members is intended to circumvent that restriction by manipulating the creation of two licensed premises. This is

specifically recognised in the advice note issued to licensing authorities by the Gambling Commission. This advice note, dated the 25 April 2008 is enclosed as **Appendix C**. The key elements of the advice are as follows:

(Quoting from the document, Explanatory Memorandum to the Gambling Act 2005, Mandatory and Default Conditions) "*we want to ensure that operators do not circumvent the rules governing the maximum number of gaming machines of Category B.*"

Also, further in the document what may be regarded as a premises is discussed. Of particular note is the following:

We intend to add a further section to this part of the 'Guidance to Licensing Authorities (June 2007)' document to further emphasise Parliament's intentions of the Act regarding the definition of premises, and to make clear that premises existing under the Act must be genuinely separate with the required access and supervision requirements in place.

4) It is, in my view the case that whereas this application may have been consistent with the advice of the Gambling Commission last year, (see **Appendix D**), although this itself is a matter of debate; this is no longer the case. The advice has changed precisely because of the Gambling Commission's concerns in this area of gambling, and therefore the applications should be refused.



John Cruse
Team Leader Licensing

Appendix A

Section 172 of the Gambling Act 2005

172 Gaming machines

- (1) An adult gaming centre premises licence shall, by virtue of this section, authorise the holder—
- (a) to make up to four Category B gaming machines available for use on the premises,
 - (b) to make any number of Category C gaming machines available for use on the premises, and
 - (c) to make any number of Category D gaming machines available for use on the premises.
- (2) A family entertainment centre premises licence shall, by virtue of this section, authorise the holder—
- (a) to make any number of Category C gaming machines available for use on the premises, and
 - (b) to make any number of Category D gaming machines available for use on the premises.
- (3) A casino premises licence for a regional casino using at least 40 gaming tables shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—
- (a) each gaming machine is of Category A, B, C or D, and
 - (b) the number of gaming machines—
 - (i) is not more than 25 times the number of gaming tables used in the casino, and
 - (ii) is not more than 1250.
- (4) A casino premises licence for a large casino using at least one gaming table, or for a regional casino using fewer than 40 gaming tables, shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—
- (a) each gaming machine is of Category B, C or D, and
 - (b) the number of gaming machines—
 - (i) is not more than 5 times the number of gaming tables used in the casino, and
 - (ii) is not more than 150.
- (5) A casino premises licence for a small casino using at least one gaming table shall by virtue of this section authorise the holder to make gaming machines available for use on the premises provided that—
- (a) each gaming machine is of Category B, C or D, and
 - (b) the number of gaming machines—
 - (i) is not more than twice the number of gaming tables used in the casino, and
 - (ii) is not more than 80.
- (6) The Secretary of State may by regulations—
- (a) define “gaming table” for the purposes of subsections (3) to (5);
 - (b) provide that a gaming table is to be treated as being used in a casino for the purposes of those subsections only if used—
 - (i) for a specified purpose,
 - (ii) in specified circumstances, and
 - (iii) to a specified extent;
 - (c) provide for a number of tables are to be treated as if they were a single gaming table in specified circumstances.
- (7) A bingo premises licence shall, by virtue of this section, authorise the holder—
- (a) to make up to four Category B gaming machines available for use on the premises,

(b) to make any number of Category C gaming machines available for use on the premises, and

(c) to make any number of Category D gaming machines available for use on the premises.

(8) A betting premises licence shall, by virtue of this section, authorise the holder to make up to four gaming machines, each of which must be of Category B, C or D, available for use.

(9) But subsection (8) applies to a betting premises licence in respect of a track only if the holder also holds a pool betting operating licence.

(10) A premises licence may not (whether by way of condition or otherwise)—

(a) make provision about the number or categories of gaming machine that may be made available for use that contradicts a provision of this section,

(b) make provision that contradicts a provision of regulations under section 236, 240 or 241, or

(c) make provision of a kind prohibited by regulations under any of those sections.

(11) The Secretary of State may by order amend a provision of this section so as to vary—

(a) the number of machines authorised by a specified kind of premises licence;

(b) the category of machines authorised by a specified kind of premises licence.

Appendix B

Extract from "Gambling Addiction and its Treatment within the NHS" published by the BMA January 2007

Page 12

"Another vital structural characteristic of gambling is the continuity of the activity; namely, the length of the interval between stake and outcome. In nearly all studies, it has been found that continuous activities (eg racing, slot machines, casino games) with a more rapid play-rate are more likely to be associated with gambling problem (Griffiths 1999). The ability to make repeated stakes in short time intervals increases the amount of money that can be lost and also increases the likelihood that gamblers will be unable to control spending. Such problems are rarely observed in non-continuous activities"

Appendix C

Advice from the Gambling Commission

25 April 2008 ADV 08/08

Definition of premises

The Gambling Commission (the Commission) intends to strengthen the guidance it issues to local authorities under section 25 of the Gambling Act 2005 (the Act) relating to the definition of premises. This will include changes to part seven of the 'Guidance to Licensing Authorities

(2nd edition June 2007)' document. This has been prompted by increasing numbers of premises licence applications being made to licensing authorities which appear to be in conflict with the intentions of Parliament.

The intention of Parliament regarding the definition of premises

Parliament's intention relating to the number of higher category gaming machines available for use in gambling premises is set out on the face of the Act. In particular, section 172 the Act places restrictions on the number and categories of gaming machines that can be made available in casinos, bingo premises, betting premises and adult gaming centres.

Parliament's intention relating to access between different types of gambling premises is set down in regulations, through the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409) and the Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007/266). The Government's intention behind restricting access between certain gambling premises in this way is set down in the Department for Culture, Media and Sports' document 'Explanatory Memorandum to the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007'. Paragraph 7.6 of this document reads:

"The Act provides that...a single premises may not have more than one premises licence authorising a type of gambling activity. There were concerns that some unscrupulous operators might seek to circumvent this by artificially subdividing their premises and securing separate premises licences for its composite parts, which would undermine the different categories of premises licence created by the Act... we wanted to ensure that operators do not circumvent the rules governing the maximum number of gaming machines of Category B and above permitted in different premises. And finally, we were determined to ensure that all gambling premises have publicly accessible entrances, and are not developed in the backrooms of other commercial premises. The department decided to address these concerns by proposing conditions which restricted the access between different types of gambling premises."

The full text of the Explanatory Memorandum can be found [here](#). It refers only to the regulations for England and Wales, however the Memorandum also reflects the policy intentions behind the equivalent Scottish regulations.

Strengthening the guidance

Currently, the Commission's guidance at paragraphs 7.11 and 7.12 of the 'Guidance to Licensing Authorities (June 2007)' document describes what may be considered as a premises. Paragraph 7.1 states that:

“...there is no reason why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises.”

However, this paragraph goes on to describe that this approach has been taken in order to allow large, multiple unit premises to obtain premises licences, as long as appropriate safeguards are in place. Any sub-division of an existing premises must of course comply with the mandatory conditions relating to access between premises. Paragraph 7.12 then suggests that whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances such as its location and the suitability of the separation. The guidance also states that the Commission does not consider that areas of a building that are artificially or temporarily separated can properly be regarded as different premises.

We intend to add a further section to this part of the ‘Guidance to Licensing Authorities (June 2007)’ document to further emphasise Parliament’s intentions of the Act regarding the definition of premises, and to make clear that premises existing under the Act must be genuinely separate with the required access and supervision requirements in place.

The new section will also include guidance on providing the principal gambling activity in all premises licensed under the Act. This is to assist licensing authorities considering applications for multiple premises licences on a single site, where they need to be satisfied that the primary purpose of the premises licence is being fulfilled, ie betting facilities are provided in a betting shop, players can fully participate in bingo at all bingo premises, and so on.

This updated guidance will be based around our position as set out in our open letter to trade associations: first letter, and our follow-up letter which confirms that there needs to be an acceptable balance between the provision of the principal gambling activity and the provision of gaming machines: second letter.

Next steps

The Commission is committed to full consultation on any changes to the ‘Guidance to Licensing Authorities (June 2007)’ document. We expect to issue a consultation paper in May 2008 detailing our proposed revisions to our guidance, and will publish a final version during the summer.

The Commission will continue to monitor the way in which operators seek to use the provisions of the Act. If it becomes clear that operators are attempting to provide what are, in effect, higher category machine arcades under the guise of either a betting or bingo premises licence with only token betting or bingo provision we will not hesitate to introduce operating licence conditions and / or recommend to the Department for Culture, Media and Sports and Scottish Ministers that additional regulations are required to underpin the clear policy intentions of the Act.

Licensing authorities that are currently considering premises licence applications to divide an existing premises into multiple premises may wish to refer to the sections of the Explanatory Memorandum highlighted above, and to the Commission’s draft revised guidance which we will shortly be consulting on. We will consider also the application of our updated guidance towards premises that have already been divided.

If the premises licence applications refer to bingo premises licences, licensing authorities are reminded that the Commission has published an information paper summarising some considerations, which is available here.

Appendix D

Extract from Guidance to Licensing Authorities 2nd Addition June 2007

7.11 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But there is no reason why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, track or shopping mall to obtain discreet premises licences, where appropriate licences are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

7.12 In most cases the expectation is that a single building /plot will be the subject of an application for a licence, for example 32 High Street. But, that does not mean that 32 High Street cannot be the subject of separate premises licence for the basement and ground floor if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.

Appendix 6

Gambling Commission advice on the Principles to be applied when considering applications

Part 5: Principles to be applied by licensing authorities in Exercising their Functions

- 5.1** In exercising most of their functions under the 2005 Act, licensing authorities must have regard to the licensing objectives set out in section 1 of the Act. In particular, licensing authorities must have regard to the licensing objectives when exercising their functions in relation to premises licences, temporary use notices and some permits. The licensing objectives are:
preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
_ensuring that gambling is conducted in a fair and open way; and
_protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 5.2** In considering applications, licensing authorities in England and Wales should take particular care to bear in mind that these objectives are not the same as those in the Licensing Act 2003. In particular, they do not include considerations in relation to public safety or prevention of public nuisance. The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.
- 5.3** Section 153 of the Act provides that in exercising its functions under part 8 of the Act (premises licensing and provisional statements), a licensing authority should *aim to permit the use of premises for gambling in so far as it thinks it:*
(a) in accordance with any relevant code of practice under section 24;
(b) in accordance with any relevant guidance issued by the Commission under section 25 (ie this document);
(c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)); and (d) in accordance with the statement published by the authority under section 349
(subject to paragraphs (a) to (c)). (See Part 6 of this guidance.)
- 5.4** Section 153 also makes it clear that in deciding whether or not to grant a licence a licensing authority must not have regard to the expected demand for gambling premises that are the subject of the application. This is a key difference between the 2005 Act and previous legislation on gaming and betting.
- 5.5** The requirements in section 153 are subject to the licensing authority's power (under section 166) to resolve not to issue casino premises licences. This means that a resolution not to issue a casino premises licence applies regardless of the matters set out in section 153.

Appendix 7

Gambling Commission Advice on Protecting Children and Other Vulnerable Persons from being Harmed or Exploited by Gambling

- 5.18** With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective talks of protecting children from being 'harmed or exploited by gambling'. That means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 5.19** In relation to casinos, the Commission has issued a code of practice on access to casino premises by children and young persons, as provided for by section 176 of the Act. The code of practice is available as part of the *Licence conditions and codes of practice* on the Commission website www.gamblingcommission.gov.uk. In accordance with that section, adherence to the code will be a condition of the premises licence. (Please see Part 9 of this guidance for more information.)
- 5.20** The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission will not seek to define 'vulnerable persons', but it will 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.
- 5.21** Licensing authorities will need to consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations will need to be balanced against the authority's objective to aim to permit the use of premises for gambling. draft of the code is available from the Cabinet Office website www.cabinetoffice.gov.uk. It is intended that the code will be laid before Parliament during autumn 2007, coming into force on 1 April 2008.

Appendix 8

Gambling Commission Advice on Moral Objections

- 5.26** Local authorities should be aware that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met.

Appendix 9

Gambling Commission Advice on Premises Licences

- 7.1** Where an individual or company proposes to offer gambling for which an operating licence is required, and which is premises based, that individual or company will also need to apply for a premises licence.
- 7.2** Premises licences are issued by the licensing authority with responsibility for the area in which the premises are situated.
- 7.3** The Act contains no rules about cases where premises lie within more than one authority's area. Such cases are likely to be rare. The Commission would expect an applicant to apply to the licensing authority in whose area the greater or greatest part of the premises is situated; and if another authority receives an application it should discuss with the applicant and the neighbouring authority as to which is the appropriate authority. Ultimately, there is nothing in the Act giving an authority the right to turn down an application because it is responsible for a smaller area of the premises than another authority. However, in such circumstances, the other authority will be a 'responsible authority' in relation to the premises (see Part 8 of this guidance), and will be able to give a view on the application through these channels. Note, this is not the same as the Licensing Act where an application must be made to the authority in which the greater part of the premises is situated (see Annex A).
- 7.4** Where the premises are located in two or more areas (equally or otherwise), ultimately the applicant may choose which licensing authority to apply to. In the rare cases where such premises exist, it will be important that the licensing authorities concerned maintain close contact about the grant of the premises licence, and subsequent compliance (including inspection powers) and other licensing functions. The licensing authority to which the premises licence application was made will have jurisdiction and the other(s) will need to pass relevant information about the premises to it.
- 7.5** In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
- (a) casino premises;
 - (b) bingo premises;
 - (c) betting premises, including tracks and premises used by betting intermediaries;
 - (d) adult gaming centres (for category B3, B4, C and D machines); and
 - (e) family entertainment centres (for category C and D machines) (note that separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).
- 7.6** Please see Part 16 of this guidance for more information about gaming machine

Meaning of premises

- 7.11** In the Act, 'premises' is defined as including 'any place'. Section 152 therefore prevents more than one premises licence applying to any place. But, there is no reason in principle why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, track, or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 7.12** In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.
- 7.13** With the exceptions of the non-gambling area of the regional casino, bingo clubs, tracks on race-days and licensed family entertainment centres, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose developments.
- 7.14** Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- _ The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also that they are not permitted to be in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
 - _ Entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
- 7.15** The proper application of section 152 means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence. Therefore, premises could not, for example, be licensed as a bingo hall on week days and a betting shop at weekends.

Division of premises and access between premises

- 7.16** An issue that may arise when division of a premises is being considered is the nature of the unlicensed area from which a customer may access a licensed gambling premises. For casinos, bearing in mind the wide definition of a street, access might be from a foyer or other area which the public might enter for purposes other than gambling. The precise nature of this public area will depend on the location and nature of the premises. Licensing authorities will need to consider whether the effect of any division is to create a machine shed-type environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities available if desired. Licensing authorities should, in particular, remember that where they have concerns about the use of premises for gambling, these may be addressed through licence conditions.
- 7.17** The Gambling Act 2005 (Mandatory and Default Conditions) Regulations⁵ set out the access provisions for each type of premises. The broad principle is that there can be no access from one licensed gambling premises and another, except between premises which allow access to those under the age of 18. Under-18s can go into family entertainment centres, tracks, pubs and some bingo halls and clubs. So access is allowed between these types of premises only.
- 7.18** It should be noted that the Mandatory and Default Premises Licence Regulations define street as 'including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not'. This is to allow access, for example, to casinos from hotel foyers.
- 7.19** There is no definition of 'direct access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (eg a street or cafe), which the public go to for purposes other than gambling, for there to be shown to be no direct access.
- 7.20** The relevant access provisions for each premises type is as follows:
All casinos
_ the principal entrance to the premises shall be from a street (as defined above);
_ no entrance to a casino shall be from premises that are used wholly or mainly by children and/or young persons;
_ no customer shall be able to enter a casino directly from any other premises which holds a gambling premises licence; and
_ at the regional casino only, there should be an opaque barrier between the gaming area and the parts of the premises where children have access.

Adult gaming centres

_ no customer shall access the premises directly from any other licensed gambling premises.

Betting shops

_ access must be from a street (as defined above) or from other premises with a betting premises licence; and

_ no direct access from a betting shop and another premises used for the retail sale of merchandise or services, ie there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a cafe – the whole area would have to be licensed.

Tracks

_ no customer shall be able to access the premises directly from
– a casino; or
– an adult gaming centre.

Bingo premises

_ no customer shall access the premises directly from;
– a casino;
– an adult gaming centre; or
– a betting premises, other than a track.

Family entertainment centres

_ no customer shall access the premises directly from:
– a casino;
– an adult gaming centre; or
– a betting premises, other than a track.

Appendix 10

Gambling Commission Advice on Adult Gaming Centres

Part 21: Adult gaming centres

- 21.1** Adult gaming centres (AGCs) are a new category of premises introduced by the Act. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the licensing authority. They will be able to make category B, C and D gaming machines available to their customers.

Protection of children and young persons

- 21.2** No-one under the age of 18 is permitted to enter an AGC. Licensing authorities will wish to have particular regard to the location of and entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre or airport.

Gaming machines

- 21.3** Section 172(1) provides that the holder of an adult gaming centre premises licence may make available for use up to four category B machines; any number of category C machines; and any number of category D machines. Regulations state that category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines.

AGC premises licence conditions

- 21.4** Part 9 of this guidance discusses the conditions that may or may not be attached to premises licences, and those that are attached automatically. The Secretary of State and Scottish Ministers have set out in regulations the conditions relating specifically to AGC premises. The paragraphs below discuss these conditions, all of which are mandatory. Currently there are no default conditions specific to AGCs. Under the previous regime, these types of premises did not have set opening hours. It was considered unnecessary to set default conditions for AGCs, leaving the matter to be decided locally by licensing authorities on a case by case basis.

Mandatory conditions attaching to adult gaming centre premises licences

- 21.5** A notice shall be displayed at all entrances to AGCs stating that no person under the age of 18 will be admitted.
- 21.6** There can be no direct access between an AGC and any other premises licensed under the Act. There is no definition of 'direct access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (eg a street or cafe), which the public go to for purposes other than gambling, for there to be shown to be no direct access.
- 21.7** 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 in order to do so.
- 21.8** The consumption of alcohol in AGCs is prohibited. A notice stating this should be displayed in a prominent position on the premises.

Appendix 11

London Borough of Tower Hamlets Gambling Policy

Definition of vulnerable person (1.46)

As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

Appendix 12

London Borough of Tower Hamlets Gambling Policy

2 Adult Gaming Centres

- 2.01 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:
- Proof of age schemes
 - CCTV
 - Door supervisors
 - Supervision of entrances / machine areas
 - Physical separation of areas
 - Location of entry
 - Notices / signage
 - Specific opening hours
 - Self-barring schemes
 - Provision of information leaflets/ helpful numbers for organisations such as GamCare

2.02 This list is neither mandatory nor exhaustive, and is merely indicative.

Appendix 13

GAMBLING COMMISSION

25 April 2008

ADV 08/08

Definition of premises

The Gambling Commission (the Commission) intends to strengthen the guidance it issues to local authorities under section 25 of the Gambling Act 2005 (the Act) relating to the definition of premises. This will include changes to part seven of the 'Guidance to Licensing Authorities (2nd edition June 2007)' document. This has been prompted by increasing numbers of premises licence applications being made to licensing authorities which appear to be in conflict with the intentions of Parliament.

The intention of Parliament regarding the definition of premises

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Strengthening the guidance

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“...there is no reason why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises.”

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This updated guidance will be based around our position as set out in our open letter to trade associations: [first letter](#), and our follow-up letter which confirms that there needs to be an acceptable balance between the provision of the principal gambling activity and the provision of gaming machines: [second letter](#).

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The Commission is committed to full consultation on any changes to the 'Guidance to Licensing Authorities (June 2007)' document. We expect to issue a consultation paper in May 2008 detailing our proposed revisions to our guidance, and will publish a final version during the summer.

The Commission will continue to monitor the way in which operators seek to use the provisions of the Act. If it becomes clear that operators are attempting to provide what are, in effect, higher category machine arcades under the guise of either a betting or bingo premises licence with only token betting or bingo provision we will not hesitate to introduce operating licence conditions and / or recommend to the Department for Culture, Media and Sports and Scottish Ministers that additional regulations are required to underpin the clear policy intentions of the Act.

Licensing authorities that are currently considering premises licence applications to divide an existing premises into multiple premises may wish to refer to the sections of the Explanatory Memorandum highlighted above, and to the Commission's draft revised guidance which we will shortly be consulting on. We will consider also the application of our updated guidance towards premises that have already been divided.

If the premises licence applications refer to bingo premises licences, licensing authorities are reminded that the Commission has published an information paper summarising some considerations, which is available [here](#).

Appendix 14

COMMISSION

27 June 2008

Patrick Crowley
London Licensing Managers Forum
c/o Michael Ojo
59½ Southwark Street
London
SE1 0AL

Dear Patrick

Role of the Gambling Commission

Thank you for your letter dated 6 June 2008 which set out the views of the London Licensing Managers Forum and some questions for the Gambling Commission (the Commission).

The context is, of course, that the Gambling Act 2005 (the Act) gives licensing authorities responsibility for determining applications for premises licences but imposes a duty on the Commission to issue guidance as to the manner in which local authorities are to exercise their functions under the Act, and in particular the principles to be applied by them in exercising those functions. Local authorities have a general duty to have regard to the Commission's statutory guidance (the Guidance) and the Guidance has a special role (by virtue of section 153 of the Act) in relation to applications for premises licences.

You ask what, in my opinion, is the 'legal strength' of the Commission's 'notice of intent', as you call it, of 25 April. The statement put out by the Commission on 25 April informed interested parties of the Commission's proposal (subject always to appropriate consultation) to elaborate the Guidance in so far as it dealt with the definition of premises. That notice was not itself guidance issued under section 25 of the Act and thus is not something to which licensing authorities are required to have regard.

As you will be aware, since you wrote to me, the Commission has issued (on 16 June) a consultation paper on 'split premises' and the related issue of 'primary gambling activity' setting out its proposed changes to the Guidance and also some proposed new operating licence conditions. As explained in that paper, interpretation of legislation is, of course, ultimately for the courts but, meanwhile, in the absence of decided cases, the proposed elaboration of the Guidance is intended to assist, but not replace, local licensing authorities' own application of the legislation to any given case. The published Guidance remains the document that licensing authorities should refer to when discharging their functions under the

Act and the Commission will give appropriate notice if and when the Guidance is elaborated as a result of the consultation.

You also ask why the Commission does not make representations on individual premises licence applications if they may involve premises splitting in circumstances in which the Commission considers this impermissible. As also explained in the consultation paper, the Commission does not normally make representations in respect of or give specific advice on individual premises licence applications unless we have something to say about the previous conduct of the operator. This is because premises licensing is primarily a matter for licensing authorities taking account of our codes of practice, our statutory Guidance, local licensing policy and the three licensing objectives. Licensing authorities are better placed to reflect local circumstances and have extensive experience in the licensing of premises.

I am conscious that I am only repeating what the Commission has said in the consultation document, but it is the case that the Commission is not resourced to monitor how individual licensing authorities use their licensing powers, nor would it be appropriate for it to do so. Broadly speaking we take the view that it is a more appropriate use of the Commission's resources for generic issues relevant to premises licence applications to be addressed through the medium of the Guidance. However, as you will be aware, we are consulting on whether there might be merit in the Commission either making representations in respect of a particular licence application or applying for a review by the licensing authority of a particular premises licence should there be continuing uncertainty or a wide variation in the way local licensing authorities interpret the Act, so as to enable the issues of wider application to be determined, if necessary on appeal. As we have said, this would help to establish whether the approach adopted by the Commission to the interpretation of the legislation is correct. We would very much welcome your views on this.

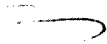
We were interested to note your members' view that the number of machines is less relevant than their impact on the three licensing objectives and on the whole we concur with your conclusion. Our concern, however, is that operators should act within the legal framework laid down by the Act and regulations. If what they are doing is outside that framework the impact on the licensing objectives is irrelevant; they are behaving illegally.

Turning to your final question, I hope it is clear from our consultation paper that any sub-division application must be looked at on its individual merits. It is certainly not our view that, as a class, such applications are 'ultra vires'. Accordingly, it is not our view that licensing authorities will be required to review premises licences where they are content that the premises meet the requirements of the Act and the mandatory premises licences conditions and are genuinely separate. However if, on reflection, they consider that their interpretation of the Act and/or the Commission's Guidance was flawed, the option of review is open to them, indeed it may be necessary if the local authority considers on reflection that the premises licence should not have been granted.

We hope that when we publish the Guidance revised as appropriate following the conclusion of the consultation, that it will assist licensing authorities to take a more robust stance in dealing with operators who are seeking to 'divide and rule' and we welcome any views you may have. Our intention is to make our Guidance to licensing authorities more effective by

providing greater clarity for licensing authorities in dealing with the contentious issues of defining 'a premises' and the provision of the principal licensed activity. We hope that licensing authorities will engage in this consultation process and the workshop we intend to hold and make their views clear to us on these topics.

Yours sincerely



Jenny Williams
Chief Executive and Commissioner

**LONDON LICENSING MANAGERS FORUM
C/o MICHAEL OJO
LONDON COUNCILS
59½ SOUTHWARK STREET,
LONDON SE1 0AL**

6 June 2008

Jenny Williams
Chief Executive
Victoria Square House
Victoria Square
Birmingham B2 4BP

Dear Jenny,

Re: Role of the Gambling Commission

The London Licensing Managers Forum was formed in May 2008 in order that London Licensing Managers can meet to share best practice, and identify and look at any licensing issues causing concern to members. Thirty one of the thirty three London Boroughs are represented on the Forum, and it was agreed at its inaugural meeting on the 12 May 2008 that it would also be used as a lobbying mechanism where appropriate.

One matter of great interest, concern and debate to the Forum members is the question of the legality of sub-division of Bingo and Adult Gaming Centre premises licensed under the Gambling Act 2005. I acknowledge the notice of your intention to strengthen the Guidance in relation to the definition of "premises" (dated the 25 April 2008) and your two letters to the gambling trade in general (dated the 12 and 26 March 2008), all published on your website.

London Licensing Managers have two concerns regarding this issue:

- 1) What, in your opinion, is the legal strength of the "notice of intent" dated the 25 April 2008? Is this something that, in your view, we can produce to Licensing Committees, and at any other legal hearings, to strengthen our case when we have made a representation against a proposed sub-division of premises?
- 2) If the Commission's view is that, in general, the sub-division of Bingo Halls and Adult Gaming Centres is contrary to the intent of Parliament when the Gambling Act was passed, why

do your officers not make representations against such applications?

The consensus of opinion of members of the Forum is that we are not overly concerned whether an existing premises can provide more than 4 machines by subdividing the premises if this is within the legislation, as we see no detrimental effect of such action on the licensing objectives. However, what we desperately need is clear Guidance from the Commission and support from the Commission's Officers, in the way of representations, if the Commission is of the opinion that such sub-division is contrary to the legislation. The Forum members are very disappointed with the lack of clear Guidance and the lack of support from the Commission to date, given that this is clearly a national matter and is seen as such by the trade who are openly trying to 'divide and rule'. This has resulted in a number of sub-division of premises applications in London being allowed, with officers not being clear whether this is correct or not.

A further fall out from this matter is that if the Commission clearly states that such sub-division applications are "ultra vires", and Commission officers lodge representations against any future applications, what action will be taken by your officers against premises that have already benefited from this confusion? We do not feel that it would be correct for local licensing officers to apply for a review of a premises licence under these circumstances as this is a national, rather than local, issue.

We look forward to your response on these matters.

Yours faithfully,

Patrick Crowley
On behalf of The London Licensing Managers Forum