

London Borough of Enfield

Briefing for the Overview and Scrutiny Business Meeting

Date 21 March 2022

Subject: **Gambling Act 2005 – Control of gambling premises including in Town Centres**

1.0 Introduction:

- 1.1 Around 63% of gambling premises shops are located in the most deprived wards in the borough where the highest number of incidences of crime associated with gambling premises occur. 20% of the gambling premises within the borough are located in the three of wards (Edmonton Green, Upper and Lower Edmonton), that are amongst the 10% of most deprived wards nationally.
- 1.2 Neither the licensing nor the planning framework provides Councils with very effective powers to limit the number of gambling premises in their areas, and many gambling premises have been long established some time ago. The licensing regime in particular legally requires Councils to **'aim to permit'** gambling premises, and so is a fundamental obstacle in this regard.
- 1.3 However, over the years, both the licensing team and planning team have sought to exercise as much control as possible of gambling premises within the constraints of the legislation.
- 1.4 When the licensing of gambling premises was transferred to local authorities in 2007, most of the gambling premises had already been established and trading for some time. In 2007/8, there were 80 licensed gambling premises in the borough. Over the years many gambling premises have closed, and new operators set up, but overall the numbers of gambling premises have remained quite stable. Currently, there are 79 licensed gambling premises in the borough.
- 1.5 We are seeing a recent trend where we are receiving applications for new bingo and adult gaming centre licence applications for premises which previously held betting premises licences. Such premises often occupy old betting shops and contain gaming machine and allow online gambling via devices. These gambling applications are notably on the increase, and this is common nationwide.
- 1.6 We recently revised and re-consulted on our Gambling Act policy (attached) which was approved at the Council meeting on 17 November 2021.

2.0 Licensing regime- Gambling Act 2005:

- 2.1 The Gambling Act places a legal obligation on local authorities to “**aim to permit**” licences if they meet with Codes of Practice, the licensing objectives and our own Gambling Policy (called the Statement of Principles). This means that we are expected to issue licences to gambling premises unless they do not meet the above requirements. Therefore it is very difficult for Councils to refuse a licence even when there are strong objections from the public and Cllrs.
- 2.2 There is also no ability under the Gambling Act to control the concentration of gambling premises (ie ‘clustering’ of gambling premises) like there is with a ‘cumulative impact’ policy for alcohol licensed premises under the Licensing Act in which you can take into account the impact of nearby pubs etc on the local neighbourhood (such as nuisance, crime and antisocial behaviour).
- 2.3 The Licensing team inspect every gambling premises on a yearly basis. Overall, gambling premises are generally compliant as the majority are operated by the large gambling companies. We receive very few complaints about how the gambling premises are operating.
- 2.4 Despite the requirement on Councils to ‘aim to permit’ the licensing of gambling premises, we have taken measures within the legislation to be as robust as possible within the constraints imposed by the legislative regime and guidance.

3.0 Enfield’s Gambling Policy (Statement of Principles):

- 3.1 In 2016, we took the opportunity presented in the revised Gambling Commission guidance to Licensing Authorities to provide a *local area profile* of the borough in the Policy. This provides operators of gambling premises with a clear understanding of the local characteristics of the borough. Unlike alcohol control, where the harms are readily apparent in drunken behaviour and nuisance, problem gambling can be less visible and have devastating impacts on the person, their relationships, their family, on their health and cause significant debt.
- 3.2 The *local area profile* shows the location of facilities associated with children (eg schools) and vulnerable persons as well as some socio-economic indicators of potential vulnerability such as deprivation and unemployment. We expect the operators of gambling premises in Enfield to demonstrate they have had regard to this *local area profile* in preparing their own risk assessment of their premises and when they make licence applications to us.
- 3.3 We also developed conditions to attach to licences in relation to the protection of children and problem gambling that are as robust as we could within the constraints of the legislation.

4.0 Fixed Odd Betting Terminals in gambling premises – reduction of maximum payout

4.1 In 2018, we supported the London Borough of Newham’s campaign to reduce the maximum payout (stakes) of fixed odd betting terminals within gambling premises from £100 to £2. At that time, these betting machines allowed players gambling excessively or compulsorily to lose £100 every 20 seconds. This campaign resulted in a change to the legislation to reduce the maximum payout from £100 to £2.

5.0 The Planning regime:

Gambling premises - ‘Sui Generis’ use class

5.1.1 Following representations by Councils including Enfield, a 2015 amendment to the Use Classes Order placed betting offices and pay day loan shops outside of Use Class A2 (financial services), instead making them expressly ‘sui generis’ uses. In more recent changes to the use class order in August 2020, Use Class A2 (financial services) has been replaced by Class E(c)(i) (financial services) within Class E (commercial, business and services). However, betting offices and pay day loan shops are still classified as “Sui Generis”. Planning permission is therefore required for all new gambling premises and pay day loan shops, even if such new units are just a change of use from what was a Class A2, now a Class E use. Prior to 2015 such changes would have been permitted development.. Such proposals would be assessed against Enfield’s Development Management Document Policy DMD 33 (see below).

5.1.2 Although Betting Offices are classed as ‘Sui Generis’ and therefore are technically in a class of their own, the current legislation does permit certain changes from betting shop use to other uses without planning permission as part of ‘permitted development’ legislation:

Sui Generis <u>(betting office)</u>	<ul style="list-style-type: none"> • E (commercial, business and services) – P3/Class A • C3 (dwelling house) <u>up to 150m2 and subject to Prior Approval – P3/Class M</u> • <u>1 or 2 flats above subject to prior approval – P3/Class G</u>
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5.2 Development Management Document, Policy DMD33 “Managing the Impact of Gambling premises”

5.2.1 Due to concerns about the proliferation and concentration of gambling premises, Planning Services introduced in its adopted Development Management Document, a specific planning policy; Policy DMD33 “Managing the Impact of Gambling premises”. This policy seeks to control the negative aspect associated with gambling premises. It aims to control the clustering of

uses to ensure there is no harm to the viability and vitality of centres or harm caused by anti-social behaviour.

5.2.2 Proposals for gambling premises will be assessed against the current DMD Policy 33 and will only be permitted if all of the following criteria are met:

- a. The proposed development is located within a local or district centre, or within the secondary shopping frontage of Enfield Town;*
- b. There should be a minimum of five non-betting shop units between the proposed site and the next betting shop premises, or at least 25m, between them, whichever is greater; and*
- c. The proposal should be designed such as to provide an active frontage during the daytime and evening, and to have a positive visual impact on the street.*

5.2.3 DMD Policy 33 also acknowledged that Article 4 Directions may be an option in centres where there is considered to be an oversupply of gambling premises to ensure any future proposals will require planning permission.

5.2.4 Enfield's DMD33 policy gives the Council control over the disposition of gambling premises.

6.0 Conclusion and further policy considerations for gambling premises:

6.1 As explained above, the Gambling Act requires Councils to 'aim to permit' gambling premises to be licensed unless there is strong evidence that they will not meet the Licensing objectives in the Act or our Gambling policy (statement of principles). We have pushed to the boundaries of the legislation on what we can reasonably require of gambling premises when they apply for licences. There are no further policy changes we can make under the Licensing regime.

6.2 The Government undertook a public consultation on revisions to the Gambling Act 2005 which closed in March 2021. We understand that the response to the consultation might not be published until 2023.

6.3 In addition to the legislative changes to the uses class for gambling premises requiring planning permission/prior approval for changes of use, Planning services have introduced DMD33 to control the clustering of gambling premises. As planning permission is required for a new betting shop, other planning controls; such as an Article 4 Direction, would not be necessary or appropriate at this time as it would not bring any additional control.