Casinos: gambling on regeneration

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Summary

The Gambling Act 2005 set out the new legislative landscape for the regulation of all gambling within Great Britain and included new provisions on casinos. The final piece in the legislative jigsaw is almost concluded. This articles considers the siting of new casinos, both small and large, focussing on the latter as these are more likely to have a greater overall effect on regeneration. It looks at how casinos might be linked to regeneration, the stages involved before casinos can be built and considers the progress of plans for a casino at each of the eight areas affected.

Introduction

The Gambling Act 2005[1] set out the new legislative landscape for the regulation of all gambling within Great Britain and included new provisions on casinos. The final piece in the legislative jigsaw is almost concluded. The DMCS consultation [2] on the definition of 'gaming table' (in the draft Casino Premises Licence Regulations) for the purposes of deciding the ratio of gaming tables to machines in casinos closed on 15 May 2009.

The industry presently awaits a response from the DCMS. The proposal is a maximum of 150 gaming machines for large casinos and 80 for small casinos.

The work of the Casino Advisory Panel [3] has been extensively reported. The DCMS plan [4] was initially for eight super casinos, eight large casinos and eight small casinos [5], but this was scaled down to one super casino and then none at all.

Although there are many interesting avenues to explore in relation to casinos, this article focuses on the progress on plans for casinos around the country and their potential role in regenerating these areas.

Casinos and regeneration

There is continual debate as to whether casinos are a useful tool for regenerating destinations or whether their social impacts and the displacement of local expenditure from other businesses overrides the benefits associated with regeneration. There are a number of examples of destinations that have benefited greatly from casino development, from Las Vegas and Rio in the USA through to the GrandWest Project and Sun City in South Africa.

Yet as Lipman found in 2001 [32], a casino development needs to be seen as part of a holistic regeneration project rather than regeneration project in its own right if it is to provide benefits to the local community.

Indeed the international case review of the impact of casinos [33] that was commissioned by the Casino Advisory Panel concluded that destinations had to "export the demand for gambling" so that gambling was gained for outside visitors rather than local communities, and develop diverse consumer choice in attractions and services in the local area to draw expenditure from visitors from the casino and into the local destination in order to maximise destinational benefits.

Existing casinos

There are currently 124 casinos in Great Britain [6], located in 'permitted areas' under the existing Gaming Act 1968[7]. Whether a casino is permitted at the moment in a town or city depends entirely on the population of the local authority area as it stood in 1972.

Obviously there have been huge changes in population since that time. This means that, due to their population sizes in 1972, a casino is permitted in the London Borough of Westminster but not in the London Borough of Croydon, even though in 2009 their population sizes are broadly comparable.

The DCMS did not include a measure in the Gambling Act 2005 stating that no new licences would be granted under the Gaming Act 1968. As a result there have been a significant number of applications made for a licence to operate a casino under the 1968 Act.

Locations of new casinos

The Final Report of the Casino Advisory Panel [3] recommended that there be one regional casino (often labelled a Super Casino by the popular press). Although both Blackpool and Brighton campaigned hard to have this, the Panel in the end recommended that this be located in Manchester.

However, the victory proved to be Pyrrhic because the DCMS eventually decided [8] that no Regional Casinos would be built at all. The Panel recommended [3] that eight large and eight small casinos be built. The proposed locations [9] for these casinos are as follows.

Large casinos	Small casinos
Borough of Great Yarmouth	Bath and North East Somerset
City of Kingston-upon-Hull	Dumfries and Galloway
City of Leeds	East Lindsey District (Skegness)
Borough of Middlesbrough	Borough of Luton
City of Milton Keynes	Borough of Scarborough
London Borough of Newham	County Borough of Swansea
Borough of Solihull	Borough of Torbay (Torquay)
City of Southampton	Metropolitan Borough of Wolverhampton

As the eight large casinos are more likely to have a greater overall effect on regeneration, this article concentrates on these - see Future large casinos later on in the article.

Regeneration: financial tools to achieve this

There are five principal tools that can be used to obtain money to aid the financing of regeneration that may be applicable to casinos.

Business rates supplements

The Business Rates Supplements Bill [10] is presently being debated by Parliament. At the time of writing it had cleared all its stages in the House of Commons and is being debated in Committee by the House of Lords.

If the proposals go through in their present form, this will allow local authorities to levy 2p for each pound of rateable value from local businesses including any casino that is built on their patch. This will mean that the money will be available to finance a variety of projects in that local authority's area.

Community Infrastructure Levy (CIL)

CIL was introduced by the Planning Act 2008[11] and replaces Planning Gain Supplement. CIL was introduced partly so that major construction projects such as Cross-Rail can be financed by its imposition.

However, in the 2009 Budget the Chancellor announced [12] that he "will assist industry by delaying the introduction of the community infrastructure levy until 6 April 2010." A general election needs to be held by May 2010, so this effectively delays a decision on the introduction of CIL until a new Government is in place.

It is presently unclear what an incoming Conservative administration's policy would be, but it cannot be taken for granted that CIL will be introduced. For now, for those local authorities that are organised (such as Solihull, Southampton and Newham), they are likely to have their casinos approved or even built before CIL is ever levied. If so, there will be no revenue raised using the CIL tool for the community in which the casino is located. For the late developers, it is unclear at what rate CIL will be charged.

Section 106 agreement

The Town and Country Planning Act 1990[13] allows a local authority to "enter into an agreement with any person interested in land in their area for the purpose of restricting or regulating the development or use of the land," and that "Any such agreement may contain such incidental and consequential provisions (including financial ones) as appear to the local planning authority to be necessary or expedient for the purposes of the agreement."

These agreements are commonly entered into by local authorities where they grant planning permission. For example, a developer of a supermarket may have to pay for road improvements. As can be seen later (see Future large casinos), all local authorities who have been allowed to have a large casino are holding open the possibility of entering into a section 106 agreement.

It is likely that this will be one of the considerations that will need to be evaluated when asssessing competing bids. Where section 106 agreements are entered into, these could assist in regeneration of a resort or destination if roads are upgraded, new parking is built or other facilities are added.

Sponsorship

An individual casino operator may, for example, want to sponsor a local football or rugby team. Such sponsorship is likely to involve some financial support in exchange for promotion of the casino.

Hull, which has been selected for a large casino, has a football team in Division 3 of the Football League; and five other locations of large casinos [14] have Premier League Football teams. Four of the eight locations selected for small casinos have football teams in the football league, Wolverhampton (1st Division), Luton (2nd Division) and Swansea and Torquay (3rd Division).

Sponsorship could provide a financial lifeline to clubs which otherwise are not hugely profitable at the present time in their own right for whatever reason.

Gambling levy

DCMS has consulted [15] on a statutory levy and the industry has said it does not want it. At the moment, DCMS has not said a definite 'No' to this concept. It is presently with DCMS Minister (Gerry Sutcliffe) [16] to make the decision.

If a levy goes ahead, it is unclear how or if the funds will be ring-fenced. If they are not, they will just go in the overall pot of money raised by taxation and will not therefore provide a financial tool for regeneration. Even if they are ring-fenced, they may be used to provide financial support to other schemes such as Gamcare [17] or the Responsibility in Gambling Trust [18]. If so, then the funds available to support any regeneration will be diminished. Atlantic City, for example, charges casinos a flat rate - 1% - and this goes towards community projects.

The position is different in other countries [19]. In the Netherlands, Sweden, Austria and Canada almost all of the profits go to the government. In Germany, Spain, France and Illinois, a high gambling tax is levied by the government on gaming machines. This means that casinos are 'no frills', but the casino operators keep all the profits. Australia held an auction for a licence to operate a casino.

The UK has followed Switzerland, South Africa and Singapore by issuing a limited number of licences which are to be awarded after a competitive tendering process.

Stages involved before building starts

Competition

The 16 towns and cities selected to have a new casino will each be required to run a competition to select an operator to run the casino. This competition has to be run in accordance with a set of Regulations [20, 21] made by DCMS. Each local authority has to publish an invitation calling for applications and this must be advertised at least once "in a trade newspaper, journal or similar publication which the licensing authority considers is likely to be read by persons in the United Kingdom and abroad who are potential applicants".

Each local authority has to assemble a pack for potential casino operators. This has to contain:

- its statement of procedure it will follow
- a statement of the principles that will be applied
- the date when it expects to make a decision
- "such other information as the licensing authority considers appropriate"

This provision enables a local authority to include in its pack any information that it wants on regeneration. As can be seen later under Future large casinos, councils such as Hull, Middlesbrough and Great Yarmouth do regard regeneration of their towns as vital and say that they will be seeking information on regeneration from potential bidders.

The closing date for the competition has to be at least three months after either the date on which the invitation was last published or the date on which the application pack was sent out.

A casino operator has to supply the local authority with a large amount of data set out in detail by DCMS in another set of Regulations [22], which set out the prescribed application form for a casino operator to complete. Question 20 of the prescribed form for a premises licence asks an applicant to: "Please set out any other matters which you consider to be relevant to your application." It is in answer to this question that local authorities will be able to gauge any potential regeneration benefits to their town.

At the end of the completion, a successful bidder will be awarded a premises licence for a casino and will need to obtain an operating licence from the Gambling Commission. Although all the potential operators are keeping their cards close to their chests, there are likely to be applications from:

- Harrah’s London Clubs
- Genting UK
- Aspers Group
- Rank
- Gala
- LCI
- Ladbrokes
- Clermont Leisure
- Les Ambassadeurs.

Planning permission

Being successful in a competition is just the start for a potential new casino operator. The DCMS rules do not over-ride anything that exists in relation to obtaining planning permission. It may be that residents in Bath, for example, wait until this stage and object to the design of the proposed casino as a way of thwarting any casino development.

For large casinos (which can have a floor area of up to $3500m^2$) combined with other facilities, such as a restaurant or a hotel, this could offer the possibility for a striking new development. If this happens, then a casino which is housed in an iconic building could become a tourist attraction in its own right.

There are likely to be some interesting planning applications. Some will generate objections and it is likely at least one will go to a public enquiry or be called in [23] by the Secretary of State. There is an existing 'use class' [24] for bingo halls. Casinos are a separate use class. The use classes will need to be changed to accommodate them.

There are six different categories that a proposed casino development can fall into. On a sliding scale with the largest first, these are:

- Destination Integrated Resort Casinos
- Limited Offering Destination Casinos
- Urban or Suburban Casinos
- Gaming Saloons and Slot Arcades
- Convenience Gaming Locations
- Internet Virtual Casinos.

Marc Etches (who helped to lead on Blackpool's unsuccessful bid with the Casino Advisory Panel for Blackpool to be the site of a regional casino) says this about the potential for a Destination Integrated Resort Casino:

'In Blackpool this would have had the potential to provide thousands of jobs, directly and indirectly, and to attract millions of visitors who would have spent money in and around the resort. This would in and of itself have boosted the local and sub-regional economy, as well as provided to the local authority a significant premium payment with which it might have chosen to build social housing, a school or whatever it felt would have best pleased the local community. This is the experience of Biloxi, Mississippi. However, the most important element of the 'regeneration' argument in relation to Blackpool was the need to instill widespread investor confidence in the town more generally for the long term to ensure that there would indeed be a sustainable and very significant legacy emanating from the decision to locate such integrated resort complexes there, rather than in other locations where such investor confidence was not so lacking and where tourism was not the dominant economic activity.'

This view is shared by Philip Kolvin QC who says [25]:

'..it is really only regional casinos which will generate sufficient income to fund real regeneration and the jobs that go with it. The new 'small' and 'large' casinos will at most contribute a modest planning gain to the local authority which licenses them.'

Future small casinos

A small casino under the Gambling Act 2005:

- will be allowed to have a table gaming area of no less than 500m^2 , a non-gambling area of no less that 250m^2 and no more that 40 separate betting positions for use in relation to betting machines
- cannot have a floor area greater than 1500m^2.

The non-gambling area could be used for a number of things but it is envisaged that most if not all of the new casinos would have at least one restaurant, which would be one of the draws to the casinos.

Areas with small populations

A number of the local authority areas selected to have a small casino themselves have a reasonably small population. It will remain to be seen if all the proposed small casinos do get built, or if they do, prove to be financially viable. Towns such as Scarborough and Skegness have small populations and although popular with domestic visitors during the summer months, they may not be able to sustain a casino during the winter months.

Areas with existing casinos

Two of the local authorities selected to have a new small casino, Luton and Wolverhampton, already have three casinos each in their town. Whilst this indicates that there is good existing demand for casinos in the hinterlands of Luton and Wolverhampton, it is not clear if each could sustain four casinos.

If there is not enough demand, a new casino would simply drain business away from the existing casinos in the towns. So even though a new small new casino may create some regeneration – if for example it is built on a brownfield site – the overall effect could be minimal if the result is the closure of an existing casino and the area that it is situated in declines correspondingly.

Surprisingly, the Casino Advisory Panel was not allowed to look at where the existing casinos were located when it drew up its Report.

Areas with casinos close by

There are two local authority areas with casinos close by (ie defined here as being within 30 miles, a distance that many people would travel for a night out). Bath, which few would say was either deprived, run-down or in need of any regeneration, has five existing casinos close by in neighbouring Bristol.

Given Bath's historic architecture, anyone hoping to open a casino there will face some interesting planning challenges and is likely to meet with some organised opposition. It is unclear if a casino will in fact be built in Bath. If one were, it is not clear what the effect would be on the existing casinos in nearby Bristol. As a worst case scenario, it could put some of these other casinos out of business, which obviously would have the opposite to a regenerative effect to those parts of Bristol.

The position could be similar in Swansea where, although it has no casino of its own at present, there are three in nearby Cardiff.

Luton has 22 other casinos close at hand as it is within easy commuting distance of those in London.

Areas with no casinos in easy reach

Skegness has no obvious casino within easy reach (defined here as within 80 miles or a good hour-and-a-half drive away). Whilst this could mean rich pickings for anyone selected to run the casino there, it could correspondingly mean that the demand for gambling in Skegness is simply not there. If this is the case, then any casino may not last long, so any long-term benefits of regeneration will not be realised.

The position is similar in Scarborough, although it does have three casinos within 75 miles in Leeds so it may be able to generate enough trade to be viable.

Dumfries is an interesting location as there are no casinos in the town or within a 30 mile radius. There are however nine casinos within a 75 mile radius including the five existing ones in Glasgow. The local authority area covers nearly 2400 square miles, so it is hard to say where a casino might be located. The Royal Troon Golf Club is 68 miles drive down the coast to Dumfries along the A76, so a casino there could complement the golfing offering and be sustainable. With the exception of the small towns of Dumfries, Stranraer and Annan, this local authority area is predominantly rural. If a casino is built and is successful, it could indeed provide an economic boost to the local economy.

Torquay has an existing casino and there are also two in Plymouth which is within a fair drive. Again whilst this shows the demand for such a facility in the town, the question is can a resort sustain two casinos in the winter months. If not, then any new casino built could simply take the business away from the existing one, cancelling out any regeneration effect.

Future large casinos

A large casino under the Gambling Act 2005:

- will be allowed to have a table gaming area of no less than $1000m^2$, a non-gambling area of no less that $500m^2$, no more that 40 separate betting positions for use in relation to betting machines but will also be allowed to have bingo
- cannot have a floor area greater than $3500m^2$.

A questionnaire was sent out to all eight local authorities seeking to find out:

- the proposed site for the casino
- what would be in the competition pack for developers (see Competition earlier)
- the information that would be sought on regeneration
- the need for section 106 agreements (see Section 106 agreement earlier)
- a minimum figure for regeneration.

The survey resulted in five completed questionnaires and details for the others were collected from other sources. Perhaps unsurprisingly, no local authority wanted to provide an estimate of an amount that they would regard as successful for regeneration in their area. One estimate published [26] says that between £120m and £140m could be available for subsidising any desired public interest projects.

The results of this research are as follows.

Great Yarmouth

- No site designated. Several possible locations.
- Likely to start competition in “late 2009, but more likely early 2010”. Will advertise competition in the Official Journal of the EU. Yet to determine the pack. Had interest already from “single operators, developers and consortia”.
- The primary motive in pitching for large casino licence is “to promote the regeneration of the town”. The council is developing definitions of “greatest general benefit” which will be guidance for bidders on regeneration priorities and will be used as criteria for bids.
- Too early to say on section 106 agreements.

There are two existing casinos in the town but no others within an 80 mile radius. The present council is Conservative, but it has a Labour MP. Will a large casino be viable out of season for a population of only 90,000 people? Its consultation on casinos [27] ended on 10 April 2009 and feedback on this will be available after the 4 June elections.

Hull

- No site picked. Prefer a city centre one to support overall regeneration. Hull Forward will be involved.
- Cabinet Report in summer on competition process. Usual tendering process will be followed. Will advertise it. Have already received a number of approaches.
- Will be looking for regeneration benefits, subject to Cabinet approval.
- Section 106 is a possibility.

There is an existing casino in the city already but no others within a 50 mile radius. If this goes ahead, then given the stated intentions, it looks like the casino will help to rejuvenate the city centre. The council is run by the Lib-Dems at the moment, but it has three Labour MPs.

Leeds

- Not designated a specific site.
- Yet to determine when it will start its competition. More than one developer has expressed an interest.
- Yet to determine the relevance of regeneration and the amount needed.
- Too early to say on section 106.

There are three existing casinos already in the city and another in nearby Bradford. There are at least another 12 casinos within an 80 mile radius. As neither Manchester nor Blackpool will be building a huge regional casino, the business case for a large casino in Leeds being a major Northern city is obvious. Despite the Council saying it has no sites in mind, there can only be a limited number of possibilities. Although nearby Scarborough on the East coast has been given approval to build a new small casino, there is no other obvious competition to Leeds to the West.

Middlesbrough

- Not designated a site. No preferred site. Expect several potential sites to come forward through the competition.
- Will start competition "later this year or early next". Awaiting DCMS to finalise gambling regulations. Will run competition within "shortest possible timescale". Will advertise it in local and specialist media. Still working on the pack. More than one operator has expressed an interest.
- Definitely regard regeneration as relevant. Aiming to create a major new leisure and entertainment destination for Middlesbrough. The authority's draft gambling policy is presently out for consultation. Detailed questions on regeneration to be finalised. All operators will need to demonstrate how the development will create benefit to Middlesbrough.
- Section 106 agreement is likely, the normal planning processes apply.

The town already has an existing casino at the Teesside Park development next to the race course where it is part of a development including cinemas, bars and restaurants. There is another casino in Sunderland, and six further casinos nearby in Leeds and Newcastle which are within a 50 mile radius. As the population of the town is only 135,000, it is doubtful that the town could sustain two casino complexes in the medium to long term.

Milton Keynes

Milton Keynes did not answer the questionnaire.

According to the local newspaper [28], outline planning permission has been granted to Xscape (which runs the existing dry ski slope in the town) for a giant entertainment complex including a casino as well as hotel, restaurants and shops on Avebury Boulevard. Another company, Leisure Plaza, has also been granted outline planning permission for a casino. Neither company has a licence to run a new casino.

The town does not have an existing casino but there are two within 30 miles in nearby Luton and Northampton. It will be within easy travelling time of a new casino that is built at Solihull. The council is hung at the moment with the Lib-Dems being the largest party.

The location for the casino near the existing Xscape building makes sense, but this is in a city-centre location which is not run-down. The proposals include more shops in a town which is not short of them, and in the present climate all these shops are unlikely to thrive. The proposal will need to address car parking issues.

Newham

- No site designated, they expect several potential sites to come through the competition.

- Will start the competition "later this year" when all DCMS Regulations are agreed. Will run competition "within shortest possible timescales". Will advertise in local and specialist media. Still working on the pack. More than one operator has expressed an interest.
- Will definitely regard regeneration as relevant - aim is to create a major new leisure and entertainment destination for London and the South East. Detailed questions for bidders to be finalized. Potential operators have been advised that the borough "will expect a substantial financial contribution".
- Section 106 is likely, normal planning processes will apply.

Although London has 22 casinos already, these are mainly in the West End, Kensington, Knightsbridge and Bayswater. There are none south of the river or further east than Russell Square. Given that Newham is also where the 2012 Olympics will be held, there is a driver to have the casino development finished at the same time. The borough has an elected Labour Mayor (Sir Robin Wales) and a council ruled by an overwhelming Labour majority. An independent commission chaired by Lord Justice Brooke is to decide where the site will be located.

Solihull

Solihull did not answer the questionnaire.

The council's website says it is holding a public consultation on its gambling policy [30] at the moment, the closing date for which is 26 June 2009. According to the local newspaper [29], Genting Stanley Limited has submitted a proposal for a £90Million leisure complex. This proposal has the backing of Birmingham City Council. The complex is also to include a hotel, spa, bars and restaurants. It is claimed it will create 29,000 jobs. With Solihull's proximity to the NEC, it is likely that the casino will be complementary to the NEC.

There are five existing casinos within a 10 mile radius of Solihull, and a further three within a 30 mile radius. Wolverhampton which is reasonably close has been granted permission to open a small casino, but the impacts of this are not likely to he huge. If the casino is part of the NEC, then it would make sense, but this is hardly regenerating a derelict brownfield site.

Southampton

Southampton did not answer the questionnaire.

The council's website directs all queries to Richard Ivory, Assistant Solicitor to the Council. According to the local newspaper [31], there are plans to develop a waterfront site with potential for 10,000 visitors on a site near Royal Pier and Mayflower Park. This complex would have a casino as well as a convention tower and observation tower. The aim is to model it on the Echo Arena, Liverpool.

There are three existing casinos in the city with a further five within a 30 mile radius and another 11 within an 80 mile radius. As the city is both a port and a major regional city with a population of 231,000 it may be able to support another venture. The proposed Mayflower Park site will do something towards regeneration.

When will the new casinos be open?

It is likely to be another two or three years before any new casino is open for business. A bidder will need to win the competition to operate a casino, get planning permission, build it and recruit the staff needed to run it. Although it will be a close race, it is likely that Newham, Solihull or Southampton will have a casino open first. Only when some are open, will we really be able to tell whether they contribute to regeneration or not.

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