

IN THE SHEFFIELD MAGISTRATES' COURT

ROYAL AMUSEMENTS

Appellant

-v-

SHEFFIELD CITY COUNCIL

Respondent

APPEAL: Hearing 17 October and 3 December 2024

JUDGEMENT

Introduction

1. This appeal is brought by Mohammed Yousaf trading as Royal Amusements (the Appellant) against the decision of the Sheffield City Council (the Respondent) Licensing Authority's refusal to grant to the Appellant a Premises Licence to operate an Adult Gaming Centre (AGC) in respect of the premises located at 9 Fargate, Sheffield, S1 2HD.
2. This appeal was heard over two days, with written judgement reserved.

The Hearing and the Evidence

3. The evidence relied upon for the hearing comprised a bundle running to 711 pages¹. Essentially, this was the material available at the Licensing Sub-Committee hearing (6 November 2023) but now including the Decision Notice (dated 9 November 2023) and additional evidence by way of updating statements. I also had the opportunity to read skeleton arguments in advance of the hearing, which were updated with oral and written submissions following the receipt of evidence.

¹ References in [square brackets] are to page numbers within the bundle.

4. Oral evidence was presented to this appeal hearing and I heard from the following witnesses for the Appellant –

- Mohammed Yousaf, Appellant and Owner of Royal Amusements
- Robert Edge, Licensing Consultant
- Darrell Butterworth, Licensing and Security Compliance Consultant

And for the Respondent -

- Shimla Finch, Principle Licensing Policy and Strategy Officer, Sheffield City Council
- Greg Fell, Director of Public Health, Sheffield City Council

The Legal Test to be Applied (see 232)

5. The appeal is brought under section 206 of the Gambling Act 2005 to a Magistrates' Court. The approach to be taken by the Magistrates' Court is set out in the decision of *Regina (Hope and Glory Public House Ltd) v City of Westminster Magistrates Court [2011]* which provides the basis for the accepted principles of appeals under the Licensing Act 2003.

- a. This appeal is a de novo rehearing.
- b. The Court should have good regard to the Decision Notice of the Licensing Authority.
- c. The tribunal should not reverse the decision of the Licensing Authority lightly.
- d. The Court should only reverse the Licensing Authority decision if satisfied that it *is* wrong.
- e. This appeal was entitled to hear – and did hear – new evidence since the original determination, including hearsay evidence (subject, as always, to weight).

6. The Court should form its own decision on the merits and have the same regard for those factors required of the decision-makers of first instance. Therefore I must consider -

- a. The aims and objectives of the legislation.
- b. Section 153 of the Gambling Act 2005.
- c. The Gambling Commission's Codes of Practice and Guidance to Local Authorities; and
- d. Sheffield City Council's Statement of Principles (s. 349 Gambling Act 2005).

7. The burden of proof that the original decision of the Licensing Authority is wrong rests on the Appellant, to the civil standard of the balance of probabilities.

8. The Licensing Objectives²

- (a) *“preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime”,*
- (b)³
- (c) *“protecting children and other vulnerable persons from being harmed or exploited by gambling”.*

9. Principles to be applied (Section 153 Gambling Act 2005)

Section 153(1) of the Act makes it explicit that this is a permissive legislative regime, namely that the Licencing Authority shall aim to permit the use of premises for gambling in so far as the authority think it -

- (a) *“in accordance with the relevant code of practice under section 24”,⁴*
- (b) *“in accordance with any relevant guidance issued by the Commission under section 25”,⁵*
- (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))”.⁶*

² Section 1 of the Gambling Act 2005

³ There is no issue for the Court or the parties in terms of *“ensuring that gambling is conducted in a fair and open way”*.

Only the (a) crime and disorder and (c) protection of children and vulnerable persons objectives are engaged.

⁴ Section 24 of the Gambling Act 2005 directs that the Gambling Commission shall produce Codes of Practice to regulate the practice of gambling and promote the objectives.

⁵ Section 25 of the Gambling Act 2005 mandates that the Gambling Commission shall issue guidance to Local Authorities (GLA) and makes it clear that such guidance must be followed.

⁶ Section 349 GA-05 places a statutory duty upon the Licensing Authority to produce a three-year Licencing Policy setting out the principles which they propose to apply ('Statement of Principles').

The Grounds of Appeal

10. The Appellant's Grounds of Appeal are set out within the bundle [222-231] and can be summarised as follows ⁷ –
- a. The withdrawal of South Yorkshire Police (SYP) objections following the agreement of further operating conditions, demonstrate that concerns around the Crime and Disorder licensing objective are manageable.
 - b. Reliance upon the unchallenged evidence of the Appellant's extensive history of operating AGC's, with no suggestion of trouble or complaint. A history which is supported by the absence of any adverse representation by the Gambling Commission, which has issued an Operating Licence (underpinned by the Codes of Practice applicable to AGCs).
 - c. That the Sub-Committee failed to distinguish between AGCs and Betting Offices.
 - d. That the Licensing Sub-Committee failed to attach appropriate weight to the appearance of, as well as strict controls on, admission and activity within, the premises.
 - e. That the Sub-Committee attached weight to irrelevant factors.
 - f. Failure to attach conditions to address concerns, rather than refuse the application.
 - g. The decision was contrary to the evidence adduced.
11. Of relevance to the observation that the decision was contrary to the evidence adduced, specific reference was made to –
- a. The effective endorsement of the Respondent's own Licensing Enforcement and Technical Officer, by email of 1 November 2023 [200], which suggests that the proposed conditions on licence are not only “robust” but also aligned with the promotion of the licensing objectives.

⁷ This is the Court's summary of the Appellant's complaints against the decision. The Appellant's written closing submissions are different in order and presentation from the original Grounds of Appeal.

- b. The observations of experts in the field of licensing, to the effect that there is no evidence to show AGC type premises contribute to an undermining of the licensing objectives, either by exacerbating the current levels of gambling, increasing the risk to vulnerable people, or increasing levels of crime and disorder. The Court received evidence from Darrell Butterworth and Robert Edge, the latter suggesting that observations at the Fargate location were “*incident free*”.
 - c. That there is no evidence to suggest that the Appellant’s proposed AGC would contribute to further crime and disorder.
 - d. Further, that there is no evidence to suggest that the Appellant’s proposed AGC would contribute to “*existing societal problems*”.
 - e. There is no reason to distinguish the subject location (Fargate) from any other city centre location in which Royal Amusements operate AGCs. Further, that there was no evidence before the Sub-Committee to conclude that the Fargate site did have this unique character.
12. There were some more general observations on the Local Authority approach which were expanded upon in closing submissions.
- a. That the legislative framework did not give the Local Authority the latitude to make the decision that it did. That the legislation did not intend for the approach taken by the Respondent; specifically that the Local Authority cannot be the sole arbiter of managing harm *irrespective of any evidence*; and that such an approach undermines the clear and careful provisions of the Act and the permissive approach of the statute.
- There was an implied suggestion that the Local Authority had identified a general problem with ‘*gambling harms*’ - and had effectively taken a decision which was ‘anti-gambling’, rather than one which focused on the legislative framework criteria.
- b. Finally, the Appellant went on to deconstruct and answer each individual decision strand of the Determination Notice of the Local Authority, concluding that this was an attempt by the same to ‘artificially bolster’ a decision which could not be justified. Where appropriate, and where these are not duplicated in the above grounds, these are dealt with within this judgement.

Withdrawal of South Yorkshire Police (SYP) objections

13. The evidence was that SYP had originally objected to the application with clearly articulated concerns [32-34]. The correspondence makes it overt that the police concerns are based on the prevention of crime and disorder and prevention of public nuisance.

“The premise is located within a main city centre hotspot for violence and antisocial behaviour. There are several adult gambling centres in the nearby vicinity which often bring about issues of violence, criminal damage, antisocial behaviour, and drug use. This in turn places demands on resources and poses ongoing issues for the nearby premises. On this basis, I have no option but to object to these proposals.”

14. Paul Briggs, a police officer working within an evidence-based policing initiative, identifies that Fargate is “one of our main hotspot areas” for violence and crime and makes a link between “these types of premises” and crime. Whilst he acknowledges that he “cannot attribute violence to premises not yet open”, he identifies issues of crime and antisocial behaviour due to the clientele they attract.
15. SYP withdrew their objections on the morning of the hearing. The only evidence for this appears in the email of Emily Price, SYP Legal Services [201], which sets out a number of licence conditions which purport to satisfy the concerns raised.
16. It is evident from the list of conditions that they are designed to address issues of crime and disorder within the premises. It is not as clear, on the evidence before this Court, why SYP hold the belief that the conditions satisfy what presents – on their own initial objection – as more widespread concerns around issues of crime and disorder in this hotspot area. Utilising my own knowledge and experience as a District Judge sitting primarily in a crime jurisdiction, regularly dealing with crimes committed in the area of the proposed location, I am somewhat surprised that SYP have taken the position which they have. The Licensing Sub-Committee were evidently not persuaded by this, and neither am I. The evidence before this tribunal does not make it clear that this was a sufficiently robust approach or that it adequately took into account the external crime and disorder position. The withdrawal of the SYP objection does not necessarily mean that every aspect of the original concern is addressed, when one looks at the overall evidential picture.
17. The withdrawal of SYP objections only seeks to address the first licensing objective. It does not address concerns of protecting children / vulnerable people from gambling harms.

The Appellant's extensive history of operating AGC's, with no suggestion of trouble or complaint, supported by an absence of adverse representation by the Gambling Commission.

Insufficient weight given to appearance and strict controls on admission

18. The position in relation to the Appellant's unblemished record on operating AGC premises was not in issue. This Court accepts that Royal Amusements operate a number of AGC's in the North of England, with no record of difficulty or suggested undermining of the licensing objectives over a 40-year operating history. This was also *expressly* recognised by the Sub-Committee in the Decision Notice ⁸.
19. This tribunal had no reason to conclude that the Appellant would not adhere to what present as strict controls (conditions) on admission to the premises. There was no reason presented to conclude that there was any likelihood of crime and disorder upon or within the actual premises themselves.
20. Mohammed Yousaf gave evidence for the Appellant. He explained how he had operated AGCs for 39 years without complaint or review by any local authority. Royal Amusements have premises in Halifax, Wakefield, Bradford and Oldham. He spoke about the management of the premises; the style and character of the premises and 'older age' demographic targeted.
21. Mohammed Yousaf explained how the premises at 9 Fargate, Sheffield was purchased at auction for £400,000, with an anticipated refurbishment of £350,000, amounting to a three quarter of £1 million investment in the premises. He explained an intention to open similar premises to those already operating in the North East and North West.
22. Mr Yousaf was cross-examined by the Counsel Respondent, and it soon became beyond challenge that little, if any, thought had been given to the location of the premises, in advance of the purchase. Mohammed Yousaf was completely unaware of the vulnerabilities at the heart of the Licensing Sub-Committee concerns, unable to name any of them. He confirmed that he had not walked around the town; that he could not name specific locations, eventually concluding that "all the city centres are almost the same".
23. In evidence, he confirmed that he had only read the risk assessments on the day of the hearing and had had no personal engagement with them.

⁸ Paragraph 9 viiii Decision Notice

24. When pressed on the inadequacies of the risk assessments, underpinning the application, Mr Yousaf appeared to express surprise that the application was under challenge –

“This is the first time in 40 years that I have had to come to Court to explain things.”

25. Taking those responses into account, whilst I accept that Mohammed Yousaf has an unchallenged record of managing AGC’s, it did not fill me with confidence that he in any way understood the challenges of this specific location, or indeed the obligation and expectation of the legislative framework to engage with those challenges, as they are anticipated by the statutory codes and guidance.

26. In terms of the appearance of the premises, there were assurances around steps which would be taken to ensure that non-visitors were unable to view the interior, or otherwise see what was going on inside. The risk to be managed here is around encouragement of passers-by, including children, to gambling. The Sub-Committee evidently had a concern in relation to the side of the proposed premises which extends down a popular cut-through known as Chapel Walk⁹. This tribunal heard how the Appellant would comply with any requirement or condition to obscure visibility. The early evidence was concerned with the appearance of similar premises, examples of which appear within the bundle [245-250]. Mohammed Yousaf explained how similar premises were dressed in a retail type display at the front, with windows adorned with vases and urns. The evidence of Darrell Butterworth was that the current Fargate area location of the premises was likely to be *“significantly uplifted”* by the presence of the proposed AGC.

27. My own assessment of the Appellant’s other premises - observing the pictures within the bundle - is less optimistic than Mr Butterworth’s, in terms of the appearance of the surrounding area. Regarding the window dressing, my conclusion is that, even if passers-by are unable to see the activity inside, they would be under no illusion as to the nature of the premises - namely that it was a gambling institution.

28. The appellant's position, regarding these assurances - despite an acceptance of an unblemished record of operation - was noticeably undermined by the advertisements in the front windows of the Appellant’s other premises:

- a. Bundle 246 - there are advertisements for a range of prizes, with posters in the windows advertising gambling services.

⁹ Paragraph 9 xi Determination Notice

- b. Bundle 247 - there is an advertisement for a £500 prize clearly and obviously displayed within the front window. These are digital machines which, Government research suggests, are more attractive to young people, not the older demographic.
- c. Bundle 397 - the windows of Royal Amusements in Kirkgate, Wakefield, are predominantly concerned with the advertisement of gaming prizes. There is little to support the suggestion of vases and urns creating the impression of 'retail' premises. I reiterate my conclusion the passers-by would be under no illusion that the purpose of these premises is the business of gambling.

29. Mohammed Yousaf confirmed that the style, character and demographic is not referenced within the risk assessment, even in its most updated version. Mr Yousaf's responses appeared to undermine the suggested demographic -

"I would not stop any 18 or over coming in. They are allowed in, but if they do not find what they are looking for, they will not be interested."

"We are attractive to everyone."

"The posters are attractive to young people."

30. Whilst I accept that the above issues and concerns might not necessarily translate into, or be replicated in, the Fargate premises, the risk is that they *might*, thereby exacerbating the overall risks (discussed in greater detail below).

31. In conclusion, there is nothing to suggest that the Licensing Sub-Committee did not give sufficient weight to either the *appearance* of the premises or strict controls on entry. Nor that it failed to acknowledge or consider the Appellant's record of operations. In fact, specific reference was made to that record.

Endorsement of Licensing Enforcement and Technical Officer

32. The Appellant placed some weight on the email of Gareth Barrett [200] which examines further conditions on the licence proposed by the Appellant and concludes that they are "*not only robust but also aligned with the promotion of the licensing objectives*".

33. Gareth Barrett did not give evidence at this appeal. It is therefore not clear which licensing objectives he is referring to; nor the way in which he believes the proposed conditions promote those objectives, or otherwise address the concerns and objections raised. I accept that, as Licensing Enforcement and Technical Officer, he has some expertise, but the reality is, that this evidence is limited in terms of the weight I can ascribe to it, in the absence of a more detailed explanation or exploration of its meaning.
34. In terms of Mr Barrett's observations on the robustness of the conditions addressing the concerns around the public health objections (in the event that those objections prove to be relevant in context of the overall evidence), it can safely be assumed that his email has no relevance or weight whatsoever. [See the evidence of Greg Fell, below].

Observations and evidence of experts in the field of licensing

35. On behalf of the Appellant, the Court heard evidence from Robert Edge, Licensing Consultant and Darrell Butterworth, Licensing and Security Compliance Consultant.
36. The evidence of Robert Edge was that he had conducted many observations of premises such as the ones at 9 Fargate, Sheffield. His statement [385-400] confirmed that he had been instructed by the Appellant to carry out a site visit for the purpose of completing the Local Risk Assessment for the Fargate premises, and to confirm that the proposed premises would be compliant with the licensing objectives. He outlined his awareness of the objections and concluded that the Sub-Committee decision was "*flawed and unjust*".
37. He spoke to observations he had made outside the proposed premises on 27 October 2023 [393]. His conclusion was that these observations formed part of the most "*incident free*" observations that he had ever undertaken.
38. In cross examination, Counsel for the Respondent, elicited a number of responses which reduced the weight which I can properly give to the evidence of Robert Edge.
- a. Although Mr Edge presented himself as a "*experienced licensing consultant*", he acknowledged that he was 'offering a service' to customers, in this instance the Appellant. He was forced to accept that his version of the *Local Area Risk Assessment (LARA)* was inadequate, with matters fundamental to the character of the area and location specific

concerns simply overlooked¹⁰. When it was put to him that, as a “*very experienced licensing consultant*”, this was a basic document for a gambling application, he accepted that it “*could have been better*”. He then went on to say that his version was “*relatively standard*” for similar applications he had produced on a number of occasions and “*more than sufficient for these types of premises*”. This was undermining of the detail which one might expect to be in the LARA and failed to explain why the Appellant therefore felt it necessary to produce a third and more comprehensive version.

- b. Robert Edge’s observations of 9 Fargate, Sheffield were limited to a single visit to the area of the premises thereafter captured in paragraph of evidence [393]. There is no evidence that he had any real understanding of the location. As such, there was no evidence to support the Appellant’s assertion that these were city centre premises like any other.¹¹

My overall conclusion was that Robert Edge was simply instructed to support the Appellant’s application, with very limited evidence of true independence and objectivity.

39. Darrell Butterworth, Licensing and Security Compliance Consultant also gave evidence, and his two statements are set out within the bundle [401-425; 426 – 433]. The first statement (dated 30 October 2023) was before the Sub- Committee. Mr Butterworth’s second statement (14 April 2024) is new evidence before this tribunal, not considered by the original decision makers.

40. Mr Butterworth presented details of observations not only on the appeal site but also several town and city centre AGC’s over a period of some nine days conducted at different times of the day and night. Specific to the Sheffield Fargate premises, his log of events consisted of observations over 6 hours on Thursday 26 October 2023 (available to the Sub-Committee [424-425]-) and 7 hours on 13 April 2024 (new evidence [432-433]-).

41. In his first statement, he concludes that there was no crime and disorder observed at any of the locations, and that no vulnerable people were attracted to the venues. He was able to state that, to his knowledge, there was no evidence ever produced to show that a AGC

¹⁰ There was no mention of the Archer Project, Cathedral or the Sanctuary, nor any reference to parks, nurseries, student and college locations.

¹¹ I took the view that it is not for the Local Authority to prove that the proposed premises sit within an area of “unique character”. Once raised, it is for the Appellant to show on the balance of probabilities that they are not. Furthermore, the Appellant is best placed to establish that evidential position, having AGCs in different city centre areas.

type premise exacerbates current levels of gambling in an area or that the location of a AGC licensed premise increases the risk to vulnerable people in a location or contributes to crime and disorder.

42. Part of Mr Butterworth's evidence focused on the differences between AGCs and Betting Offices which, he said, were totally different environments, the former free of crime and disorder – welcoming and ambient spaces for an older demographic - with young people being indifferent to the premises. He said that the impact of AGCs on crime and disorder was nil or otherwise improving of it. His evidence was that the proposed premises would raise the character of Fargate, referencing the area's currently "*shocking presentation*". He drew comparisons with other AGCs, where activity inside premises could be observed, whilst confirming that this would not be representative of the activities of Royal Amusements. He had never seen any AGC trouble.

43. In cross examination, it was put to Darrell Butterworth that he was experienced but not an expert. That his background was only in *policing*, and he could not claim to be either a public health expert or a behavioural psychologist. He accepted that he could speak to *observable harms*, but not to *hidden harms* or the "*invisible vulnerable*".

44. I found Darrell Butterworth to be a much better witness in the Appellant's cause, not least because he acknowledged and accepted that the concerns raised in opposition to the application were genuine concerns. He was able to recognise problems specific to the location, but he did not agree that the proposed ACG would increase crime and disorder.

45. Despite these concessions, similar limitations apply to the evidence of Darrell Butterworth as they do to Robert Edge. Firstly, he could only really speak to the crime and disorder position. Secondly, his observations of the area are limited in duration and number. They do not speak with authoritative knowledge or understanding of the locality. Finally, being instructed by Royal Amusements, caution must be exercised that Mr Butterworth is more likely to be an advocate for the Appellant's position, than not.

The Sub-Committee failed to distinguish between AGCs and Betting Offices

46. There is nothing in the 2005 Act of Guidance to distinguish between AGC and Betting Office gambling. Where relevant, observations on this are dealt with in context of other aspects of this judgement. I do not conclude that the Licensing Sub-Committee in any way failed to appreciate this distinction.

Application of the Legislative Framework

47. There was a manifest difference in the way in which the Appellant and the Respondent sought to interpret the application of the legislative framework of the Gambling Act 2005. The facts in this appeal are, for the most part, agreed between the parties. The dispute appears to lie in the application of the relevant legal principles and guidance.
48. The Appellant's position can best be summarised by listing the remaining grounds of appeal as I have recorded them in the earlier part of this judgement -

The legislative framework did not give the Local Authority the latitude to make the decision that it did. The legislation did not intend for the approach taken by the Respondent; specifically that the Local Authority cannot be the sole arbiter of managing harm *irrespective of any evidence*; and that such an approach undermines the clear and careful provisions of the Act and the *permissive* approach of the statute.¹²

Specifically, there was -

No evidence to suggest that the proposed AGC would contribute to further crime and disorder.

No evidence to suggest that the proposed AGC would exacerbate "*existing societal problems*".

And -

No reason to distinguish the subject location (Fargate) from any other city centre location in which Royal Amusements operate AGCs.

No evidence to conclude that the Fargate site did have a unique character.

49. The Appellant believes that the Sub-Committee approached its decision in a way which ran contrary to the established law and guidance. The Appellant places a heavy reliance upon section 153 (1) of the Gambling Act 2005, specifically the permissive nature of the gambling legislation - a licensing authority shall aim to permit the use of premises for gambling. If there are identified issues in terms of the licensing objectives, then the obvious remedy is to impose suitable conditions upon the premises licence to meet those concerns.

¹² There was an implied suggestion that the Local Authority had identified a general problem with '*gambling harms*' - and had effectively taken a decision which was 'anti-gambling', rather than one which focused on the legislative framework criteria.

50. Attention was drawn to the raft of conditions drafted by the Appellant's solicitor, circulated and agreed by the Police and the Licensing Enforcement Officer.
51. The position of the Respondent Local Authority is that it is this particular locality which is of relevance to the grant or refusal of the premises licence. The Respondent argues that the 'harms' envisaged by the licensing objectives are far wider than those which can be observed on, or at the door of, the premises. Conditions on a premises licence can be imposed to regulate what goes on inside and, to a certain extent, who comes in. However, there are no conditions which can regulate the gambling harms which extend *beyond* the premises. Furthermore, there are *invisible harms* and *unidentifiable vulnerabilities* which cannot be detected by staff or even the best regulatory measures.
52. Identifying the harms arising by locating an AGC in this particular area, the Respondent argues that the Licensing Sub-Committee was entitled to conclude that no conditions, however robust, could be effective in preventing the undermining of the licensing objectives.
53. The relevant legal framework to which this tribunal should have regard is set out at pages 2-3 of this judgement (above). The parties have made extensive reference to the aims and objectives of the legislation and section 153 of the Gambling Act 2005. The latter draws attention to the permissive regime ("*the Licensing Authority shall aim to permit the use of premises for gambling*") by reference to the Codes of Practice (LCCP) and Guidance to Licensing Authorities (GLA) issued by the Gambling Commission; in addition to a Local Authority's own Statement of Licensing Policy (SLP).
54. A key aspect of my decision is the extent to which these codes, guidance and policies, fetter the presumption of granting the licence. There is a clear an obvious tension between the permissive regime, and the risks which the permissive regime creates in terms of gambling harms, identified at a local level. The Government White Paper [614-681]¹³, makes extensive reference to these tensions. Accepting of course that the White Paper has not reached the status of legislation, it nevertheless sets out a clear trajectory for likely changes in approach, by encouraging Licensing Authorities to develop better tools and assessments of harms. It is, in my view, worth looking at what those harms are – and whether they are supported by available evidence - prior to assessing whether they bear any relevance to this application, or my approach to the legislative framework.

¹³ *High Stakes Gambling: Reform for the Digital Age*, Chapters 5 and 6

The evidence of Greg Fell

55. **Greg Fell** is the Director of Public Health for Sheffield City Council. He was one of the original objectors to the premises licence [Bundle 447 – 468] and also gave evidence at this appeal. Greg Fell's witness statement appears at pages 434 - 445 within the bundle.

56. Mr Fell described how gambling-related harm is a growing public health concern, significantly under addressed in Sheffield and nationally. He explained that evidence shows our health and well-being is affected to a greater extent by economic, social and environmental factors, including the commercial determinants of health, than by individual factors or health and care services.

57. Mr Fell drew attention to the available evidence that gambling harms are not equally distributed throughout society. Individuals who are already vulnerable and at risk of poor health are more at risk of gambling related harms, with those higher risk groups being men; those aged between 16 and 44 years old; people living in an area of high deprivation; and people drinking alcohol at higher risk levels.

Mr Fell's evidence highlighted levels of elevated risk for those who are unemployed and those living in areas of higher deprivation, where gambling harms were up to seven times higher than the least deprived neighbourhoods. These disparities *were "particularly clear when looking at land-based gambling venues"* suggesting that *"accessibility of gambling opportunities is associated with increased gambling and gambling related harm"* [449].

58. Expanding upon the nature of 'gambling harms', Mr Fell's evidence referenced the negative impacts on mental health, physical health, relationships, finances including debt and housing. He emphasised the link between suicide and gambling, and the wider impact which this had on families.

59. The Director of Public Health drew attention to the density of city centre gambling locations and vulnerable people, in context of the proposed Fargate premises; a high population of 'rough sleepers' and 'street beggars', with numerous hostels day centres and local services specifically catering for this demographic. Attention was drawn to the 'clustering' of similar premises, in proximity, thereby increasing the risk of preventable harms from gambling to local people, in particular to children and other vulnerable persons. The evidence highlighted 12 physical locations to gamble within a 500 metre radius (5-minute walk) of 9 Fargate, including an existing AGC within a 4-minute walk [440].

60. Greg Fell explained how ‘clustering’ is of increasing concern, due to the cumulative effect of multiple gambling premises compounding the adverse impacts of gambling on children, young person’s and vulnerable people. His position was that the granting of this application would increase accessibility and availability of opportunities to gamble in a location in the city that is close to a high number of sensitive locations and areas of risk.

“These sensitive locations and areas of risk provide services and support to, or are frequented by, children, young people and other vulnerable persons, many of whom are those most vulnerable to being harmed or exploited by gambling”.

61. These sensitive locations can be found in the list and maps at Exhibit GF2 [453] and include but are not limited to –

- a. Youth and Children’s Services
- b. Mental health services
- c. Substance misuse treatment services
- d. Services for vulnerable adults
- e. Services for people with disabilities
- f. Several university and college sites and student accommodation

62. The Director of Public Health himself referenced the government White Paper ‘*High Stakes: Gambling Reform for the Digital Age*’ explaining, in the context of students, that people aged 18 to 24 years may be particularly susceptible to gambling harms [442].

63. Focusing on services for vulnerable persons, Mr Fell emphasised the footfall of vulnerable people within the specific location of the proposed ACG, drawing upon his knowledge of a known gambling issue amongst people who are part of the ‘street culture’ in the city centre. The sensitive locations within proximity of this application include ‘The Archer Project’, ‘The Foundry’, ‘The Sanctuary’, and Salvation Army¹⁴. There is also a new Sheffield clinic base of the NHS Northern Gambling Service.

64. With regard to the impact on children and young people [451], Greg Fell’s evidence drew attention to gambling advertising and visibility. Although children are not legally permitted to gamble, advertising and visibility of gambling companies and products in places where children and young people are present, can normalise gambling and make it appear

¹⁴ A full list of vulnerable and sensitive locations is Annexed to Greg Fell’s Statement.

appealing.¹⁵ In paragraph 38 of his statement prepared for the Appeal hearing [443] reference was made to the photographs provided by the Appellant of shop fronts of existing Royal Amusements premises. Mr Fell explained how the nature of the posters and images are designed to be appealing to children and young people.

65. I have already referred to the presentation of these shop windows and my own conclusion that no one could be in any doubt about the nature and business of these premises [Paragraphs 27-28, above]. This tribunal has good knowledge of the location of the proposed AGC, with lived experience of how children and young people frequent and interact with the area. Within metres of 9 Fargate, Sheffield, there are four fast-food outlets (McDonald's, Wendy's, Burger King and Greggs), together with the Sainsbury's Local, all of which command a high congregation of children and young people. A few doors down, there is the HMV store. Directly outside of McDonald's, Wendy's and HMV, is the transport interchange, regularly used by children, young people and students to make transport connections between their homes and places of education.

66. Supplementing his statement in oral evidence, the Director of Public Health explained that harms are a complex social and medical issue, taking many forms and ranges of harm. He explained that those suffering harm are not necessarily visible, particularly those with invisible vulnerabilities (for example, those struggling with bereavement or mental illness). For that reason, it was difficult to spot, until it was too late, often with lifelong impact.

67. Mr Fell was cross-examined on behalf of the Appellant. Mr Fell explained how his role included advising the licensing team on the dangers of gambling to health and how this might be reflected in the Local Area Profile. He made clear that he was not opposed to every gambling application and that it was not his remit to object on crime and disorder grounds. His concern was with public health - in particular, children and other vulnerable persons. It was this particular location of the proposed AGC, which fuelled his concern.

68. Greg Fell accepted that, when it came to gambling harms, there was no data to distinguish Betting Offices from AGCs but stated that that gaming machines were "*the fastest route into a gambling problem*" and that most addicts in NHS clinics were slot machine players¹⁶.

¹⁵ A recent study conducted on behalf of GambleAware examined exposure to and the impact of advertising of gambling products on children and young people. The study found that despite regulations prohibiting targeting of gambling advertising to under 18's promotions and window advertising outside of gambling venues remained prevalent, and far more so in less affluent areas. [452].

¹⁶ The Director of Public Health was challenged on this evidence (hearsay only), but the Court took notice of his interaction with professionals and clinics involved in gambling services, who ask patients on entry to clinic regarding their gambling habits. Greg Fell accepted that there was no way to distinguish Betting Offices from ACG's, both of which house gaming machines.

69. The witness reiterated that vulnerable people are more predicated to gambling harms, which he based on the available statistical evidence. For him, it was hard to imagine that that would not happen within a Sheffield context, especially in this particular location.
70. Mr Fell's evidence was not the subject of specific challenge, other than the obvious point that it was not possible to link his analysis back to the proposed AGC premises. The Director of Public Health accepted that he could give no specific examples of individuals harmed and accepted that it was not possible to map harm back to particular premises. This point goes directly to the grounds of appeal relied upon by the Appellant, that there was simply no evidence to suggest that the proposed AGC, at 9 Fargate, Sheffield, would exacerbate existing societal problems or increase gambling harms.
71. Whilst I accept that there is no direct evidence to link the Royal Amusements venture with specific problems, there is nothing which undermines what Greg Fell reports in relation to gambling-related harm as a growing public health concern. As the Director of Public Health, it is hard not to regard him as an expert in his field. His evidence drew upon a significant body of study and research to support the concerns raised, including the Government White Paper and statistics compiled by Public Health England and the Office for Health Improvement and Disparities¹⁷.
72. In reality, none of this evidence was in dispute; only the relevance of it to the licensing objectives and this particular AGC. The real question for the Court is, *to what extent was the Local Authority (and by extension, this tribunal) entitled to take it into account? Is it even relevant to this application?*

Codes of Practice and Guidance Issued by the Gambling Commission

73. The 2005 Act makes provision for the Gambling Commission to issue guidance to assist to exercise their functions as the Local Licensing Authority decision maker. The local authority is statutorily obliged to have regard to the guidance.
74. The Guidance for Licensing Authorities (GLA) draws attention to the statutory aim to permit gambling, insofar as it is considered to be reasonably consistent with the pursuit of the licensing objectives. Emphasis is placed on the use of conditions attached to licences to moderate the impact on the licensing objectives (1.19).

¹⁷ Greg Fell's evidence had a properly evidenced statistical foundation. See, in particular, the evidence presented at [448-452].

75. The GLA recognises that “*licensing authorities are best placed to understand and manage local issues*” (1.7) in context of licensing authorities taking the lead on local regulation of gambling. Reference is made to licensing authorities and their public health colleagues working closely to deliver results in protecting the third licensing objective of “*protecting children and other vulnerable persons from being harmed or exploited by gambling*” (1.12). The GLA clearly envisages a reference to public health as part of the overall assessment of gambling harms, rather than a narrower focus.
76. The GLA references the licensing objectives (1.20) and the power of the Commission to issue codes of practice including a social responsibility code to which the licensing authority must have regard (1.22). Licensing authorities have a discretion to regulate local provision of gambling with wide-ranging powers to do so (1.24), including the power to issue a statement of licensing policy (SLP). The statement of licensing policy is “*a very important part*” of gambling regulation with the expectation that licensing authorities will set out local issues, priorities and risks that inform and underpin its approach to local regulation (1.31). It provides the opportunity for licensing authorities to set out how gambling is managed in different parts of the local authority area to deal with local concerns and issues (1.32). It provides clarity of expectation for prospective licensees about how their businesses are likely to be treated in different localities, with the aim to identify and mitigate local risks to the licensing objectives (1.32). The SLP is the primary vehicle for taking account of local circumstances, to ensure that operators have sufficient awareness and understanding of local risks to help them comply with local gambling regulation (1.33).
77. The existence of the SLP meant that the Appellant, Royal Amusements, were *on notice* regarding an expectation that different parts of the locality will be dealt with differently. The GLA makes reference to the requirement for operators of premises to conduct local risk assessments (1.30).
78. Royal Amusements conducted a total of three local area risk assessments (LARA). Only the third (prepared in anticipation of this appeal hearing) could properly be regarded as a satisfactory document, recognising the specific location area vulnerabilities which are referenced in the evidence of Greg Fell (above). In the third and final LARA, the Appellant clearly accepts a wide definition of vulnerable persons and an acknowledgement that the area in which Royal Amusements seeks to operate is characterised by a high proliferation of sensitive locations and areas of risk.

79. This position is undermining of the Appellant's submission that there is no reason to distinguish the subject location (Fargate) from any other city centre location in which Royal Amusements operate AGC's; and undermining of the further submission that there was no evidence to conclude that the Fargate site had a "*unique character*".
80. Whilst I accept that it is *theoretically* possible that Royal Amusements premises in West Yorkshire and elsewhere, outside of Sheffield, may be indistinguishable from the character of the location at 9 Fargate, Sheffield, and that "*all city centres are the same*", the following observations counter and discredit that position –
- a. The premises were purchased in clear anticipation that the premises licence would be granted, with no advanced thought or consideration to the nature and characteristics of the area in which the AGC would be located. This approach is clearly articulated in the evidence of Mr Yousaf, who was completely unaware of the sensitivities of this location and his voluntary contribution that this was the first time in four decades that he had had to come to court to explain things. That position runs counter to the principles set out in the GLA (above) which encourages prospective applicants to anticipate and plan for risk.
 - b. The fact that there was a need to revise the LARAs (three in total) to reflect the true character of the location; and Robert Edge's comment that the second was, "*more than sufficient for these types of premises*", is undermining of the approach envisaged. Without making any finding, it reflects poorly on the Appellant's somewhat lackadaisical approach.
 - c. Importantly, if the Appellant takes issue with the suggestion that 9 Fargate, Sheffield, is not a location of *unique character*, or that the location is indistinguishable from Royal Amusements' other operations, then it is, in my view, for the Appellant to demonstrate that position on the balance of probabilities. In that respect, as the operator of both existing and proposed premises, the Appellant is best placed to do that. No such position was evidenced. No information regarding the location or LARA profile of their other premises was produced. Consequently the overall weight of evidence favours a conclusion that the proposed site at 9 Fargate, Sheffield, is unique in its character.
81. The fact that previous applications in other geographical areas have not come under the same challenge or scrutiny, as the current application, (Counsel for the Appellant made clear his view that most applications are granted without reference to scrutiny), is not a reason to ignore the legislative framework and requirements of section 153, in terms of what the licensing authority are entitled to take into account.

Statement of Licensing Policy (Principles) – Section 349 Gambling Act 2005 (SLP)

82. The Gambling Commission make it clear that the SLP is the licensing authority's mandate for managing local gambling provision and sets out how the licensing authority views the local risk environment and therefore the expectations in relation to operators with premises in the locality (GLA 6.1). The SLP is the *"primary vehicle for setting out the licensing authority's approach to regulation having taken into account local circumstances"* (6.2). One size does not fit all, and policy statements are likely to reflect differences in approaches between different licensing authorities, dependent on the demographic, geographic, economic and social circumstances of the particular location in question (6.3).
83. My attention was drawn to a *new* statement of licensing principles, which was within a day of been adopted (nevertheless unadopted) and generated some argument about whether the court should take notice of it. In the interests of justice and fairness, I have focused my attention on the original policy at the time of conclusion of the hearing. Nevertheless, as Shimla Finch explained in her evidence, the purpose of the revised document was to make the SLP more robust, with strengthened wording, renewed emphasis on risk factors and better information to assist stakeholders with the LARA profile. It clearly demonstrates the direction of travel; the same direction as is clearly articulated in the White Paper.
84. Section 5 of the old SLP deals with *Location, Area Profiling and Risk Assessments*. Section 5.2 makes it clear that whilst each application will be treated on its own merits, applications which the authority feels is in close proximity (determined on a case-by-case basis) or en route to sensitive locations, will be held to scrutiny. Section 5.2 goes on to list those locations across nine bullet points, all of which (without exception) reflect the characteristics of the proposed Fargate site.
85. It is particularly relevant that the White Paper makes it clear that the 'aim to permit' requirement in section 153 of the Gambling act 2005, does not prevent the refusal of licences to minimise risk. Even without legislative reform, that much is clear from the section itself given that the aim to permit is qualified in s.153(1)(a)-(d). Applicants could never expect an obligatory grant. The permissive regime stops short of being mandatory.
86. Paragraph 1.7 of the GLA confirms the position that *"licensing authorities are better placed to understand and manage local issues"*. This also brings section 153 into sharper focus with the words *"in so far as the authority think it [to be in accordance with (a) – (d)]"*.

*“..... a licensing authority has no discretion to grant a premises licence where it would mean taking a course which it did not think accorded with the guidance contained in this document (GLA), any relevant code of practice, the licensing objectives or the licensing authority’s own policy statement”.*¹⁸

87. The suggested reforms within the White Paper, place a clear emphasis on individual local authorities being best placed to determine the grant or refusal of an application. With those observations in mind, I return to the remaining objections raised by the Appellant.

The legislative framework did not give the Local Authority the latitude to make the decision that it did. The legislation did not intend for the approach taken by the Respondent; specifically that the Local Authority cannot be the sole arbiter of managing harm *irrespective of any evidence*; and that such an approach undermines the clear and careful provisions of the Act and the *permissive* approach of the statute.¹⁹

88. The above analysis clearly demonstrates that the Licensing Authority were acting within the permitted ambits of its jurisdiction to make the decision that it did. The permissive approach articulated in Section 153 Gambling Act 2005 is manifestly subject to those matters set out in s.153(1)(a)-(d), the relevant codes, guidance and local authority statement of principles, when attempting to assess whether a grant of a premises licence is reasonably consistent with the licensing objectives. All of those policy and guidance documents draw attention to the need for local authorities to identify, set out and manage local issues priorities and concerns. It begs the question; *What is the purpose of local area risk assessments if they are to be discounted and dismissed under the weight of the permissive regime?*

89. The Court of Appeal decision in *R (on the application of Hope & Glory House Ltd) v City of Westminster Magistrates’ Court & Ors* [2011] provides some insight and assistance -

“Licensing decisions involve weighing a variety of competing considerations Although such questions are, in a sense, questions of fact, they are not questions of the ‘heads or tails variety’. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location”.

¹⁸ Paragraph 1.37 of the GLA

¹⁹ There was an implied suggestion that the Local Authority had identified a general problem with ‘*gambling harms*’ - and had effectively taken a decision which was ‘anti-gambling’, rather than one which focused on the legislative framework criteria.

90. *Hope & Glory* provides a useful reminder that it is the particular locality that is of relevance. It may very well be that other localities away from Sheffield City Centre will have their own character and risks that may be capable of being addressed in accordance with local circumstances and, potentially, licence conditions, as appropriate. However, it may equally be said that the character and risks of other locations may not be so readily addressed.
91. It is evident from the GLA that *“licensing authorities are better placed to understand and manage local issues”*. Therefore, when the Appellant complains that the Local Authority did not have the latitude to make the decision that it did; and further, that the Local Authority cannot be the sole arbiter of managing harm, I am forced to ask the question, ‘Who else is to be the guardian of it?’ Who else is to be the safeguarder of potential and prospective harms, if it is not the local authority?
92. Furthermore, I reject the suggestion that there is no evidence before the tribunal, upon which the licensing authority could properly have regard, in order to reach the decision that it did. The evidence of the Director of Public Health is strong and persuasive when placed in context of an area with particular sensitivities and vulnerabilities. Furthermore, the same sensitivities and vulnerabilities are now recognised and clearly articulated in the Appellant’s own final revised risk assessment. Greg Fell’s evidenced conclusions that individuals who are already vulnerable and at risk of poor health are more at risk of gambling related harms, was not in dispute, and cannot simply be ignored. The policy documents entitle a licensing authority to take account of the cumulative impact or clustering of the gambling provision. There was available evidence of clustering of gambling premises in this particular location. The impact upon children and young people congregating in the area, whilst not synthesised to an individual or specific instance of harm, should nevertheless be anticipated when it comes to the visibility of these types of premises. The research on the impact of gambling and gambling harms is there. And it was unchallenged.
93. I acknowledge the Appellant’s position that there is no evidence which could directly link the proposed ACG with existing societal problems or further crime and disorder. In support of that position, the Appellant points to a record of good operations and robust set of conditions to be applied at the door and interior of the proposed premises. However, that approach fails to recognise the bigger picture of the proliferation of gambling harms within an area specific location. This is despite the fact that the Appellant now acknowledges – through its updated LARA that these risks are real. Recognising that those real risks are often hidden, intangible and invisible to traditional regulation, it is simply not possible to identify any conditions on the premises licence which would or could meet those risks.

94. The case of *R (on the application of Porky Pint Ltd) v Stockton-on-Tees Borough Council* [2013]²⁰ offers further insight into the construction of the licensing objectives (albeit under the 2003 Act). Although ‘public health’ is not a specific licensing objective, the Court determined that its overlap with ‘public safety’ was clearly established. In my judgement, public health falls well within the 2005 Act objective of “*protecting children and other vulnerable persons from being harmed or exploited by gambling*”.

95. It is for this reason, that the Appellant’s further complaint, by reference to the Licensing Sub-Committee’s “*catchall provision*” conclusion (namely, that there are no conditions which could meet the risks)²¹, must also be rejected. It is recognised that the legislative framework of section 153, allied guidance and policy, creates a strong steer to use conditions to manage risk; but what possible conditions are there to meet the harms identified through the evidence of the Director of Public Health? The Licensing Sub-Committee clearly had this at the forefront of their minds, when determining not to grant this application because they were concerned about this specific area location –

“The Sub-Committee balanced the local risks of the area with the statutory ‘aim to permit’ duty and considered that this presumption was not satisfied in accordance with s.153 of the Act and they did not consider that any additional conditions would sufficiently address the risks detailed in the representations and evidence presented”.

Irrelevant considerations

96. The Court makes it clear that it finds the following matters to be irrelevant to the determination of this appeal, and has explicitly discounted them as factors in the decision:

- a. Section 153 (2) specifically prevents licensing authorities from taking account of the expected demand for the facilities in determining whether to grant a premises licence. It is clear that the Licensing Sub-Committee acknowledged this statutory obligation, rejecting the representations of interested parties, where they fell within this categorisation of objection.²²

²⁰ EWHC 128 (Admin), paras [16] – [20].

²¹ Decision Notice: Paragraphs xiii and xviii; and by reference to the Appellant’s written closing submissions (page 19, paragraph 16).

²² Paragraph 9 iii Decision Notice

- b. The relevance of planning applications is also discounted. Decisions in relation to planning should have no bearing on an authority's own decision on whether to grant a premises licence.
- c. This tribunal could find no evidence to support the contention that the closure of a number of [gambling] premises in Fitzalan Square had resulted in an improvement in crime and disorder and anti-social behaviour. The question was specifically asked, and no evidence was forthcoming. Consequently discounted.
- d. The Director of Public Health made reference²³ to a view that the granting of this premises licence at 9 Fargate, Sheffield, would be detrimental to the character, vitality, and economic wellbeing of the city centre. The fact that Fargate is presently undergoing renovations and is considered, as such, to be an area of local improvement is a consideration which has been explicitly discounted from this tribunal's consideration in terms of whether to grant the premises licence.

²³ Greg Fell's Statement [436] paragraph 13.

Conclusions and Findings

97. It is the locality that is of proper consideration – not merely the premises themselves or the recognisably strict controls on the premises themselves.
98. The legislative framework, articulated through those matters which must be considered within section 153 of the Gambling Act 2005 (Principles to be applied), undoubtedly contemplate that a Local Authority is best placed to identify and manage area specific concerns. The relevant codes of practice, guidance issued by the Gambling Commission (GLA) and Sheffield City Council's Statement of Licensing Policy all contemplate that the approach to regulation must properly take account of local circumstances. The evidence and approach to the relevant law and guidance is manifestly consistent with the conclusions set out in the Home Office White Paper: *High Stakes (Gambling Reform for the Digital Age)*.
99. The Local Authority has applied the established law and guidance to determine the locality specific concerns. These concerns are not in dispute. The Appellant's third revised and updated local area risk assessment makes a clear acceptance and acknowledgement of the relevance and admissibility of these locality specific concerns. This was reinforced and acknowledged in the live evidence presented by the Appellant at this appeal hearing.
100. On a balance of probabilities, the evidence supports a conclusion that the Fargate site location is unique in its character. There is an overt and evidenced picture of a proposed AGC location which is close to a high number of sensitive locations and areas of risk.
101. Any suggestion that there is no reason to distinguish the subject location (Fargate) from any other city centre location in which Royal Amusements operate AGCs, is a position which the Appellant has not established on a balance of probabilities.
102. Whilst I accept that there was evidence before this Court which suggests that no difficulties were observed by the two licensing experts, it has to be acknowledged that these experts are produced on behalf of the Appellant, have their own limitations, and are essentially limited snapshots of the locality. That, quite simply, cannot compare with the lived experience of Council officers, who have an acute and intimate knowledge of the Sheffield City Centre and, in particular, this high risk area, regular frequented by the vulnerable and high volumes of children passing through.

103. The evidence of Greg Fell, Director of Public Health Sheffield, clearly establishes a link between gambling harms and the greater proliferation of those harms when gambling premises were located in sensitive locations and areas of risk. Individuals who are already vulnerable – as well as children - are at a greater risk of gambling related harms. The impact of ‘clustering’ of gambling premises (the evidence supported a high volume within the location of 9 Fargate) was a further contributor to heightened risk of otherwise preventable harms.
104. Whilst there was no *direct* evidence to suggest that the proposed AGC would contribute to further crime and disorder, the observations of Paul Briggs were never properly addressed by the evidence before me. The fact that South Yorkshire Police withdrew their objections, did nothing to counter the evidence-based observation that the proposed premises was located in one of the force’s “*main hotspot areas*” for violence and crime and the suggested link between “*these types of premises*” and crime and disorder. It remains clear that, when determining an application for a premises licence, this remains a relevant consideration. However, it is impossible to properly assess how the proposed AGC might impact.
105. It is, however, incorrect to suggest that there was no evidence that the proposed AGC at 9 Fargate would exacerbate “*existing societal problems*”. On a balance of probabilities, the contrary position was manifestly established by the Director of Public Health. Gambling harms are evidently not limited to gambling on the premises, and instead, proliferate far more widely.
106. Having reached that conclusion, then it is an unchallengeable position that there are no conditions which I could place upon a premises licence which might address these types of gambling harms. They are unknown and invisible harms; unidentifiable in advance of them occurring. Whilst I recognise that the proposed package of conditions go beyond what might ordinarily be expected for these types of premises, they only address what can be seen and what might occur largely on the premises. They may assist with crime and disorder in proximity or on the premises; however, they are insufficient and incapable of addressing the protection of children and other vulnerable persons from being harmed or exploited by gambling, when applied to the wider definition of gambling harms and vulnerabilities contemplated by the legislative framework.
107. The Local Authority was properly entitled to take these factors into account when assessing whether the grant of the premises licence was reasonably consistent with the licensing objectives. Indeed, it was statutorily directed to do so. They are not irrelevant considerations.

108. The Local Authority was entitled to form the view that it did on harm. It is a view which, in light of the evidence presented, I am obligated to share. There would be a real and obvious jeopardy to the licensing objectives – undoubtedly, the risk of harm to children and other vulnerable persons – by placing a gambling establishment in this locality.
109. I am completely satisfied that the Licensing Sub-Committee approached its decision in a way which is entirely consistent with the established law and guidance. I am unable to conclude that the authority's decision ran contrary to the evidence adduced. It is entirely in line with my own conclusions.
110. I am being asked to conclude that the Committee's decision is wrong when, against the criteria I have to apply, and the available evidence in this case, it is manifestly *not wrong*.
111. The Appellant has failed to establish that position on a balance of probabilities. Consequently, this appeal is refused.

District Judge (MC) Spruce

24 February 2025