

Betting offices: are controls sufficient?

In 2008, the Labour Government published Fair Rules for Strong Communities. It was a high level affair, carrying the imprimatur of four separate government departments and a foreword by the Prime Minister Gordon Brown. It promised tough new rules on alcohol, sex and gambling.

As for alcohol, this resulted in the Mandatory Code, and the prototype Early Morning Restriction Order. In the case of sex, it resulted in the reclassification of lap-dancing clubs as Sexual Entertainment Venues and their control alongside sex shops and cinemas.

In the case of betting offices, two separate concerns were identified, that clusters of such premises can a) fundamentally alter the character of a neighbourhood, and b) harm vulnerable people. The promise was that the Department for Culture, Media and Sport would investigate how we can ensure that the licensing framework and planning system give local communities and their authorities sufficient power to address the issue. Three years later, nothing has been done. This brief article investigates the history of the issue, and asks whether anything can or should be done about the suggested problem.

Off-course bookmakers were first legalised in 1961, largely in response to the recognition that the options were for a highly regulated industry or for the proliferation of unlicensed bookmakers on street corners. The ensuing half century has been characterised by incremental deregulation of the industry, as highly prescriptive rules have been relaxed one by one. So, for example, the first betting offices could not have daylight, refreshments or sporting commentary.

In response to the business opportunities flushed in by deregulation, betting offices have become more congenial environments, with better disabled facilities, refreshments, digital screens, price finder terminals and sporting press. In addition, the range of events upon which betting occurs has broadened from the traditional horses and dogs to football, cricket, the Irish Lottery and national elections. They have also become safer environments, with modern offices tending to include full counter screens, maglocks, safe havens and CCTV. National schemes such as the Safe Bet Alliance have dramatically reduced robbery rates in offices. Betting offices do not permit the consumption of alcohol and shut well before public houses. There is rarely noise leakage and nuisance cases are rare to non-existent. After a poor initial record in test purchase operations under the Gambling Act 2005, bookmakers are on top of age verification, and underage betting is very rare.

So, what is the problem? In the main, there are two recurrent themes. First, there is a perception that the Gambling Act 2005 has resulted in a large increase in the number of betting offices and/or that there has been a clustering of offices which detract from the character of the street scene, impact detrimentally on town centre vitality and viability and are a temptation to the vulnerable. Second, there is a view that betting offices are generators of crime and anti-social behaviour.

As to the first theme, the numbers argument is without substance. On 1st May 1961, 8,802 shops were opened. The numbers continued to grow and peaked in 1968 at

15,782. In 1987, betting offices were explicitly recognised as appropriate for provision in a shopping area alongside financial, professional and other services by their inclusion as A2 Uses in the 1987 Use Classes Order. At that date, there were 10,384 offices. That number fell year on year to 2003 in 8,804, prior to the advent of the Gambling Act 2005. Last year it fell to 8,595.

What has changed is that in some betting areas betting offices have emerged from side streets to units in primary shopping areas. This is partly because operators have been able to demonstrate to planning authorities and inspectors that the removal of restrictions on open shop windows for bookmakers means that betting offices no longer present dead frontage, and that they generate as much footfall, and therefore contribution to vitality and viability, as many retailers. It is also partly because of the advent over the last decade of fixed odds betting terminals, which are significant drivers of profit and have enabled bookmakers to afford units with higher rentals and greater prominence. In a few areas this has given rise to clustering, to a greater or lesser degree.

No doubt, many believe that betting offices are responsible for the decline in the traditional functions of the high street. There is little evidence for this. The egregious loss of day to day retailers from our community streets – butchers, fishmongers, bakers, grocers – has nothing to do with bookmakers, who tend to take units formerly occupied by banks and estate agents. It has much more to do with the dynamics of the retail industry and the market share of the supermarkets. Furthermore, the national retail vacancy rate, now averaging well over 10%, does not suggest that occupation by one sector is ousting another.

Nor is there any significant evidence of an association between the number of betting offices in a locality and the amount of problem gambling. There is already in our nation the ability to gamble across a great variety of platforms, be they real or virtual. The market for betting offices tends to be walk-in and local, so that while a further office may divide up the cake, and to some extent pull in trade from a slightly wider catchment, there is no great belief in the industry, let alone independent evidence, that it enlarges the cake.

The high-point of the argument against more betting offices is that fixed odds betting terminals pose a risk to problem gamblers. However, this has not been borne out by any data from the national prevalence survey or elsewhere, with the introduction of these machines into betting offices not being shown to have caused a measurable increase in problem gambling.

It should also be noted that there are strict controls on the activities of betting offices, set through the Licence Conditions and Codes of Practice on operating licences, and the Mandatory and Default Conditions on premises licences. The thesis that a vulnerable person will gamble more if there are four betting offices within walking distance rather than three, or two rather than one, is intuitively puzzling and empirically unproven. T

The “character” argument is a somewhat subjective one. Are betting offices more or less harmful to the character of urban streets than lap dancing establishments, off-licences, take aways, supermarkets or the chains that can be seen on every high street

everywhere? There is perhaps a judgmental element creeping in to an assessment of what is acceptable, to which it is no part of the role of the planning or licensing system to pander.

As to the second theme, the argument is that betting offices give rise to crime and anti-social behaviour. The evidence that they give rise to crime is extremely thin. There have been some cases where betting offices have been used by drug dealers for their activities, but these are few and far between. There are also some cases where punters smash the screens of gaming machines perceived not to be in a giving vein. Were one to compare these incidents with crime and disorder in pubs and clubs, or even property crime in supermarkets, one would find them to barely register in official data.

Sometimes, usually in response to licence applications, police data is compiled to demonstrate the number of crimes within x metres of a betting office to show that the figures are high. But this data is usually not traceable to the betting office itself, and merely demonstrates that betting offices tend to open in high footfall areas near to other retail and licensed facilities, where one would expect a higher amount of crime, just as one would expect low amounts of crime in dairy pastures. A fairer view is that betting offices reflect their local communities, and just as criminals go into pubs and shops they go into betting offices. This does not mean that betting offices cause crime.

There has, however, been one important change. The smoking ban has meant that there is a larger amount of hanging around outside, usually by older men, some of whom might be drinking as well as smoking. This has undoubtedly given rise to concern in certain quarters. Whether it amounts to crime and disorder within the meaning of the Gambling Act 2005 is perhaps open to question. But it is an undeniable point of conflict between betting offices and some local communities.

Over the last ten years, there has been a sea change in the attitude of the alcohol industry to events outside their premises, largely engendered by the same factors. It is now no longer unusual to see conditions regarding smoking areas, taxi marshalls, street wardens and door staff managing dispersal. Well-advised bookmakers are starting to tread the same path, finding imaginative solutions to these problems. But is more required?

In 2010, David Lammy MP proposed a *sui generis* use class for betting office, so that betting operators would always need planning consent to open a new betting office, rather than, as now, being able to take over an A2 use such as a bank or estate agent, or an A3 use such as a restaurant, and convert it to a betting office without the need for consent. He was told in Parliament by the planning Minister Bob Neill that a national change in the planning rules would be disproportionate when there is no evidence to suggest that the proliferation of betting offices is a widespread problem requiring national legislation. Mr. Neill also pointed out that, in the small number of cases where there is an issue with over-proliferation, the answer would be a local Article 4 direction, removing permitted development rights within the Class A2 use class. This is a view also known to be shared by John Penrose, the Minister for Tourism and Heritage. Whether in practice Article 4 directions will be used by licensing authorities is a matter for conjecture, particularly given the potential to have

to pay compensation to those whose permitted development rights are affected. But the response is clearly indicative of the Government's initial view on taking office.

Interestingly the issue has arisen yet again in the 2011 DCLG pre-consultation on change of use in the planning system. However, both because the Government's view has been consistently against tighter regulation of gambling and because further regulation is inconsistent with the growth agenda, the smart money is against further planning regulation for betting offices.

The issue is also currently being looked at by the Department of Culture, Media and Sport Select Committee. While the Committee is yet to report, the evidence sessions suggest that the Committee may believe that smart regulation would involve increasing the number of fixed odds betting terminals permitted per office, so as to dampen the demand for large numbers of offices in individual localities.

In summary, whether there is an answer to the question depends very much on the question. If the question is whether planning and licensing authorities have strong powers to prevent further betting offices, the answer is no. On the whole, betting operators have been able to overcome objections so as to make their case for new facilities. The removal of the "demand test" in the Betting, Gaming and Lotteries Act 1963 and its replacement by the "aim to permit" test in the Gambling Act 2005 has made it easier for operators to chase units in prime locations. The presumptions in favour of development in planning cases, which throw the onus onto planning authorities to rebut well-rehearsed cases advanced by experienced betting operators, have made it difficult for authorities to resist the advent of new offices.

If, however, the question is whether there are sufficient powers to control how betting operators behave, the answer is yes. Operators have shown themselves up to the task of implementing rules on age controls, problem gambling, self-exclusion and internal management of offices. In some locations, operators will need to acquire the skills to do more to overcome what is perceived by many communities to be the problem of loitering outside offices. As more cases are decided at appellate level, it is anticipated that good practice on this topic will disseminate fairly rapidly. The process would be accelerated by the setting of standards in local policies. Certainly, the industry wants resolution of this issue as much as authorities, because no business wishes to be at loggerheads with the community it serves.

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