

REPORT TO LICENSING PANEL SUB COMMITTEE

CONSIDERATION OF APPLICATION UNDER THE GAMBLING ACT 2005 – APPLICATION TO VARY A LICENSED PREMISES MACHINE PERMIT

LICENSING PANEL SUB COMMITTEE: 9th March 2017
OFFICER REPORTING: Steve Smith – Licensing Officer

APPLICANT: J.D. Weatherspoon PLC

PREMISES: King & Castle. 15 – 16 Thames Street, Windsor, Berks.
SL4 1PL.

Licence Application

The application is for variation of an existing licensed premises gaming machine permit. The existing permit (copy attached) allows for 5 category C machines. A category C machine is one which has a maximum stake of £1 and a maximum prize of £70. Members' policy is to delegate authority to officers to issue permits for up to 4 machines. For more than this, applications are referred to the Sub-committee.

Steps to promote licensing objectives

Attached is a copy of the applicant's policy in relation to gaming machine permits.

Plan of the site.

There are no reported problems in relation to gambling at these premises.

THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
Statement of Principles Gambling Act 2005

The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

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

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or Approved by Full Council December 2015 Final Version 18
- an offence under the Gambling Act has been committed.

Permit: 3 or more machines.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include Staff training and supervision of the machines. Notices and signage may also be helpful.

As regards the protection of vulnerable adults, applicants may wish to consider providing the telephone number of GamCare on the machines. It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. **Conditions (other than these) cannot be attached.**

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine

Gambling Act 200d Sect 25:- Guidance to local authorities.

- (1) The Commission shall from time to time issue guidance as to—
 - (a) the manner in which local authorities are to exercise their functions under this Act, and
 - (b) in particular, the principles to be applied by local authorities in exercising functions under this Act.
- (2) A local authority shall have regard to guidance issued under subsection (1).
- (3) The Commission shall publish guidance issued under subsection (1).
- (4) Before issuing guidance under subsection (1) the Commission shall consult—
 - (a) the Secretary of State,
 - (b) Her Majesty’s Commissioners of Customs and Excise,
 - (c) the Scottish Ministers,

- (d) one or more persons who appear to the Commission to represent local authorities,
- (e) one or more persons who appear to the Commission to represent the interests of persons carrying on gambling businesses, and
- (f) one or more persons who appear to the Commission to have knowledge about social problems relating to gambling.

(5) Before issuing guidance under subsection (1) the Commission shall also consult, if and to the extent that the Commission thinks appropriate having regard to the nature of the guidance—

- (a) one or more persons who appear to the Commission to represent chief constables of police forces, and
- (b) in such manner as the Commission thinks appropriate, members of the public.

(6) In this section “local authority” means—

(a) in relation to England—

- (i) a district council,
- (ii) a county council for a county in which there are no district councils,
- (iii) a London borough council,
- (iv) the Common Council of the City of London,
- (v) the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple, and
- (vi) the Council of the Isles of Scilly,

(b) in relation to Wales—

- (i) a county council, and
- (ii) a county borough council, and

(c) in relation to Scotland, a licensing board constituted under section 1 of the Licensing (Scotland) Act 1976 (c. 66).

In making their decision, the Sub-Committee must have regard to national guidance and the Council’s own Licensing Policy.

ANNEX 'A'

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

Matter to be dealt with	Full Council	Sub-Committee	Licensing Officers
Three year licensing policy	All cases		
Policy not to permit casinos	All cases		
Fee setting – when appropriate		If delegated by Full Council	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises' licence		All cases	
Application for club gaming / club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of a club gaming/club machine permits		All cases	
Applications for other permits			All cases
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	
Consideration of an Occasional Use Notice			All cases
Prosecution of offences under Gambling Act 2005			Community Protection & Enforcement Services Lead in conjunction with the Head of Legal Services
The appointment of Authorised Persons in accordance with Section 304 Gambling Act 2005			Community Protection & Enforcement Services Lead
Applications for Licensed Premises Gaming Machine Permits		Over 4 machines	Up to 4 machines