

## 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: 26<sup>TH</sup> April 2018

OFFICER REPORTING: Steve Smith – Licensing Officer

APPLICANT: J.D. Weatherspoon PLC

PREMISES: The Bear, 8-10 High Street, Maidenhead, SL6 1QJ

#### Licence Application

The application is for variation of an existing licensed premises gaming machine permit. The existing permit (copy attached) allows for 4 category C machines. A category machine is one which has a maximum stake of £1 and a maximum prize of £100.00. 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 under 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 machines 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 license objectives, any guidance issued by the Gambling Commission issued under Section 25 of 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 that under 18 year olds do not have access to the adult only gaming machines. Measure which will satisfy the authority that there will be no access may include Staff training and supervision of the machines. Notices to be 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 licenced premises may apply for a premises license 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 Custom and Excise,
  - (c) The Scottish Ministers,
  - (d) One or more persons who appears to the Commission to represent local authorities,
  - (e) One or more persons who appears to the Commission to represent the interests of persons carrying 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 the chief constables of police forces, and
    - (aa) The chief constable of the police services of Scotland
    - (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 licensed board constituted under section 1 of the Licensing (Scotland) Act 2005 (asp 16)

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**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee</b>	<b>Licensing Officers</b>
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

7195279

**APPLICATION FOR THE NOTIFICATION / GRANT / VARIATION /  
TRANSFER OF A LICENSED PREMISES GAMING MACHINE PERMIT  
(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION  
ON THE PREMISES)**

*Please refer to guidance notes at the back of this form before completing*

To:  
Licensing Section  
The Royal Borough of Windsor & Maidenhead  
York House  
Sheet Street  
Windsor  
SL4 1DD

**Section A – Applicant Details**

1. Name of Applicant

**JD Wetherspoon Plc**

2. Date of Birth or Company registration No. as applicable

**1709784**

3. Address / registered office of applicant

**Wetherspoon House, Reeds Crescent, Watford, Hertfordshire WD24 4QL**

4. Telephone number (daytime) of applicant

**01923477902**

5. E-mail address of applicant

**jodell@jdwetherspoon.co.uk**

6. Name, address, telephone and e-mail of agent (e.g. solicitor) if submitted on behalf of the applicant

**SECTION B – Premises Details**

1. Name of premises

**The Bear**

2. Address of premises

**8-19 High Street, Maidenhead, SL6 1QJ**

3. Telephone number of premises

4. E-mail address of premises (where available)?

**P6220@jdwetherspoon.co.uk**

5. Licensing Act 2003 Premises Licence Number

**PL001336**

**SECTION C – What do you want to do?**

Please indicate what you would like to do:

a) Notify licensing authority that you intend to provide up to a maximum total of 2 gaming machines of category C and / or D. *If you choose this option then please complete section F.*

b) Apply to the licensing authority for more than 2 gaming machines. *If you choose this option then please complete sections D and F.*

c) Apply to vary an existing permit. *If you choose this option then please complete sections D and F.*

d) Request that the licensing authority transfers an existing permit to yourself. *If you choose this option then please complete sections E and F.*

**SECTION D – Grant and variation requests**

1. How many gaming machines are you currently authorised to provide and how many do you wish to provide? Please complete the boxes in the table.

Category machine	Number currently authorised to provide	Number wish to provide
C	...4...	...5...
D	.....	.....
Total	.....	...5...

2. If you are authorised to provide more than 2 machines, please provide your existing permit, or provide reasons stating why it cannot be provided.

Existing permit provided

Reasons why existing permit cannot be provided

.....  
 .....

**Section E – Transfer request**

1. Name of person requesting the transfer

JD Wetherspoon plc

.....

2. Please confirm that an application to transfer the relevant Premises Licence under the Licensing Act 2003 has been:

Requested

Granted

3. Please provide your existing permit, or provide reasons stating why it cannot be provided.

Existing permit provided

Reasons why existing permit cannot be provided

.....  
.....  
.....

**Section F – Fee and Signature(s)**

**1. I enclose**

**In all cases**

- *the relevant fee*



**2. I confirm that**

- ***the premises where the machines are proposed to be located are licensed to supply alcohol for consumption on the premises and that there is a bar for serving alcohol to customers on the premises (without the requirement that alcohol is served only with food).***



- ***I am aware of and will abide by the Gaming Machine Code of Practice for Alcohol Licensed Premise Permits and Permissions issued by the Gambling Commission.***



- ***All staff will be trained as to the limits of any stakes and prizes and the requirements of the Act, Guidance and any appropriate codes of practice or conduct***



**Please note: It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.**

Dated 5/1/18

Signed by or on behalf of the applicant Jocelle

Name (please print).....JENNIE ODELL.....

\* If you wish to have a maximum of 2 gaming machines then the fee payable is £50. If you wish to have more than 2 gaming machines then the fee payable is £100 by an existing operator or £150 in all other cases.

To Vary the Permit £100  
To Transfer the Permit £25



**GUIDANCE NOTES: APPLICATION FOR THE NOTIFICATION / GRANT / VARIATION /  
TRANSFER OF A LICENSED PREMISES GAMING MACHINE PERMIT  
(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)**

1. This form is to be used for the NOTIFICATION of up to 2 gaming machines of categories C and / or D under Section 282 of the Gambling Act 2005, or the GRANT / VARIATION / TRANSFER of a gaming machine permit under Section 283 and Schedule 13 of the Gambling Act 2005.
  2. All references to 'Premises Licence' refer to a Premises Licence under the Licensing Act 2003 authorising the sale of alcohol for consumption on the premises.
  3. The premises must be licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises.
  4. A 'Premises Licence holder' is a person holding a Premises Licence under the Licensing Act 2003.
  5. The gaming machines must be located on these licensed premises and there must be a bar for serving alcohol to customers on the premises, without the requirement that alcohol is served only with food.
  6. The permit's duration is indefinite as it is linked to the Premises Licence. There is a first annual fee payable 30 days after the grant of the permit and an annual fee payable after that before each anniversary of the date of issue of the permit. Failure to pay the annual fee may result in the cancellation of the permit. The annual fee is £50.
- 
7. Two types of gaming machines can be located in alcohol licensed premises. These are:
    - Category C: Maximum stake = 50p / Maximum prize = £25
    - Category D: Maximum stake = 10p or 30p non-monetary / Maximum prize = £5 cash or £8 non-monetary
  8. The holder of a licensed premises gaming machine permit must comply with any relevant Code of Practice issued by the Gambling Commission under Section 24 of the Gambling Act 2005. The Gaming Machine Code of Practice for Alcohol licensed premises permits and permissions is available via the Gambling Commission's website at: <http://www.gamblingcommission.gov.uk/> Should you be unclear as to the provisions of such a code of practice please contact your local licensing officer at the council address provided.
  9. This licensing authority must notify the applicant of its grant / refusal of the application for a permit as soon as is reasonable practicable after that decision to grant / refuse has been made.

**Official Use Only**

**Date of receipt:** .....

**Signature and name of staff who received:** .....

**Date of receipt of fee:** .....

**Signature and name of staff who received fee:** .....

**Application accepted / returned (please delete as appropriate)**

**Date of premises licence (Licensing Act 2003) transfer (if applicable):** .....

## **Licensed Premises Gaming Machines** **JD Wetherspoon Policy and Procedure Overview**

We understand when considering this application that the Licensing Authority will consider the 3 objectives of the Gambling Act 2005 and therefore have set out below the policies and procedures JD Wetherspoon undertakes in its pubs to promote this objectives. In addition the Gambling Commission's "Gaming Machine Permits Code of Practice" is complied with.

### **1. Protecting children and other vulnerable people from being harmed or exploited by gambling;**

To ensure that no persons under the age of 18 are permitted to play on our gaming machines, we abide by a Challenge 21 policy in all of our premises. Under this policy, all of our employees are trained to ask any customer who appears to be under the age of 21 years to provide valid proof of age that they are over the age of 18. When in use, Door Supervisors are also fully briefed on our policy and what is expected of them in the implementation of the same.

J D Wetherspoon has adopted the industry standards and the recommendations of the Gambling Commission and recognises only the following forms of identification as valid forms of proof of age:

- National passport
- Photographic Drivers' Licence
- United Kingdom 'PASS' accredited age identification card with photograph.

In certain circumstances, other forms of ID are accepted at the discretion of the manager on duty such as international ID cards or military ID cards.

We apply this policy to all age restricted activities on our premises.

All employees receive induction training on our Challenge 21 policy when they commence employment with the Company and then receive regular refresher training. All employees complete video training, quizzes and sign a letter to confirm that they have had this training and understand their responsibilities. All training records are retained on personnel files and these files are regularly reviewed by the pub management team and members of our Retail Audit department to ensure that the training system is being satisfactorily completed.

Staff compliance with our Challenge 21 policy is tested by a number of means:

1. Management review of a 'refusals log' which records when and how often bar staff are recording when a sale has been refused.
2. Independent mystery visitors who are aged 18 and 19 years are sent into our pubs to test compliance with our Challenge 21 policy.

Our Challenge 21 policy is also actively promoted within the premises using self-adhesive signs at every entrance, staff wearing 'It's my job to ask' badges and posters throughout the premises.

All front of house staff are aware of their responsibility for preventing underage gambling.

All machines are situated in a place where their use can be supervised.

**2. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime; and**

The power to all gaming machines is turned off after the pub has closed to ensure potential thieves are not attracted by the lights in the pub.

JD Wetherspoon pubs also have two types of alarm systems, the panic alarm and intruder alarm, which cover the majority of the pub including the customer area where gaming machines are located.

The monitored intruder alarm covers the main entry points when the pub is closed. It is mainly activated by a forced entry into the pub triggering the door contacts or motion detectors. This pub is internally described as having a 'level 1 response' to its alarm system, meaning police response. This is an automated system which feeds through to Secom central station, our alarm consultants, who notify the police and the registered key holders of the pub.

JD Wetherspoon prides itself on provide safe, well run premises for all people to enjoy themselves in. Over our estate of 780 pubs we spend considerable time and resources ensuring they are all well equipped with adequate and appropriate CCTV coverage.

**3. Ensuring that gambling is conducted in a fair and open way.**

All of our AWP machines are located in well supervised areas fully open to the public at large and are provided by reputable companies.

**JD Wetherspoon PLC  
September 2010**

Licensed Premises Gaming Machine Permit

THIS PERMIT IS ISSUED BY



The Royal Borough of Windsor & Maidenhead
Town Hall
St Ives Road
Maidenhead
Berkshire
SL6 1RE

web: http://www.rbwm.gov.uk/
tel: [44] 01628 683840

DETAILS OF LICENSED PREMISES GAMING MACHINE PERMIT

This licensed premises gaming machine permit authorises

J D Wetherspoon Plc

to make gaming machines, of the category and number specified below, available for use on the following premises:

Bear

8-10 High Street, Maidenhead, SL6 1QJ.

Number of Category C gaming machines authorised by this permit: 4

Number of Category D gaming machines authorised by this permit: 0

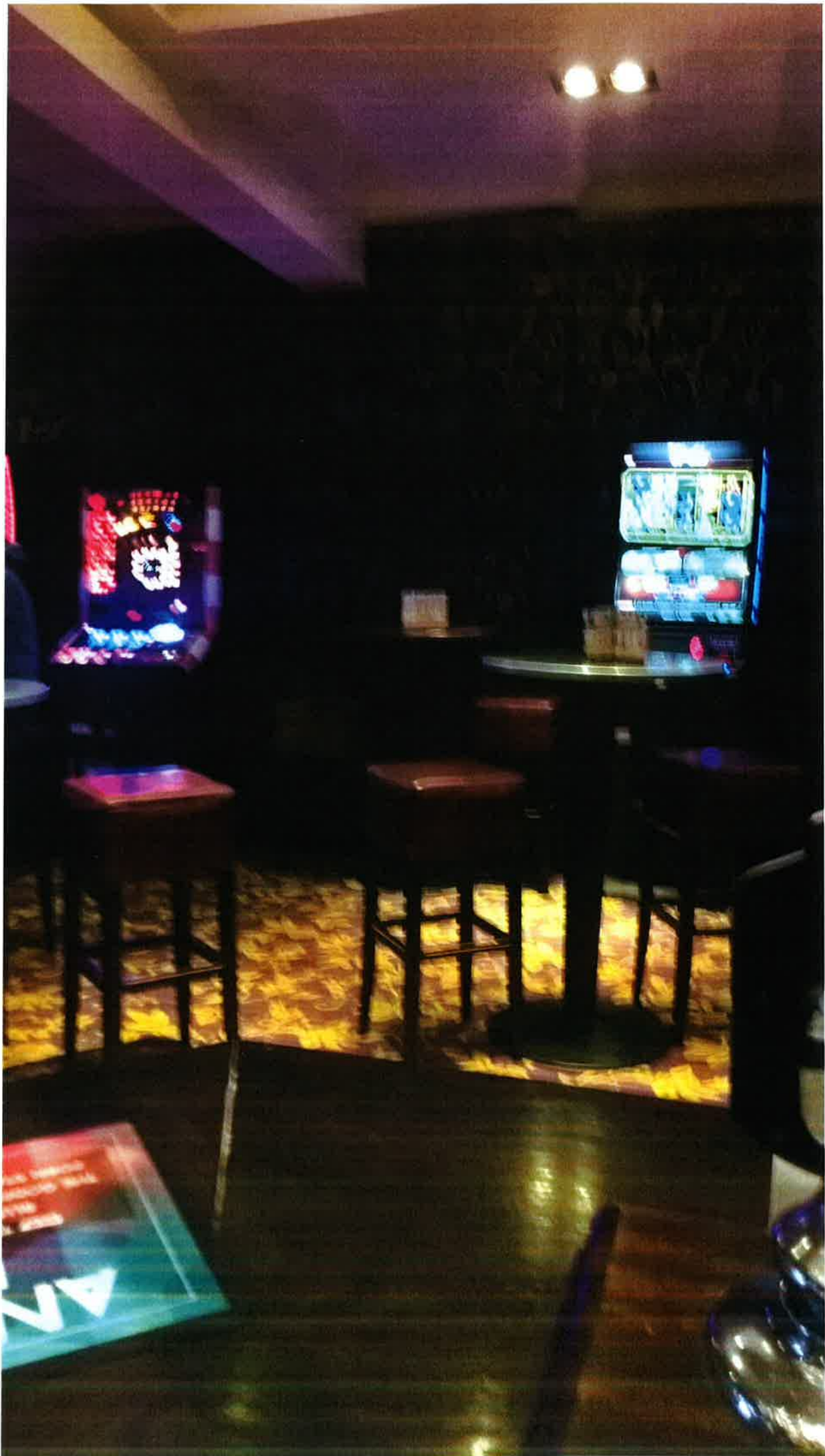
Number of Category C gaming machines authorised by this permit: 0

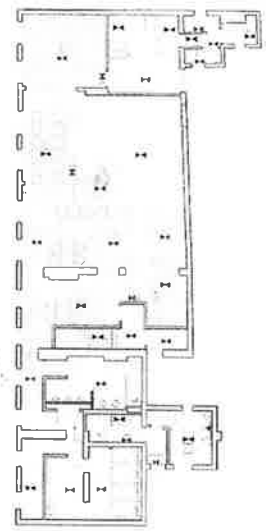
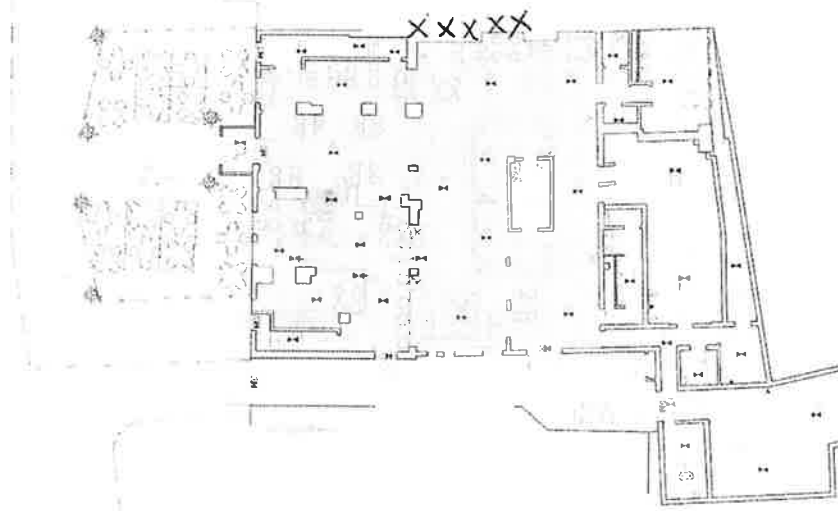
Number of Category D gaming machines authorised by this permit: 0

Date on which this permit takes effect

10/02/2010







## LICENSING SUB-COMMITTEE

### PROCEDURES

The Chairman will welcome all parties to the meeting, introduce the Sub-Committee Members and officers present, and outline the procedure as below:

- The Licensing Officer to outline the application and the decision to be taken
- Members to ask questions of the Licensing Officer
- The Applicant to put their case to the Sub-Committee and clarify any information arising from the Licensing Officer's outline
- Any Objectors to address the Sub-Committee and put their case
- Members to ask questions of the Objectors
- Applicant to ask questions of the Objectors
- Any party requested by the Applicant to address the Sub-Committee (at the Sub-Committee's discretion)
- Members to ask questions of the Applicant
- Objectors to ask questions of the Applicant
- Objectors to briefly summarise their position
- Applicant to briefly summarise their position
- Licensing Officer to provide a summary
- Chair to ask all parties if they have said all that they wish to
- Sub-Committee to retire for deliberations

**N.B. Decision letter to be sent to applicant within 5 working days**