

NON-CONFIDENTIAL



Borough of Tamworth

LICENSING ACT 2003

NOTICE OF HEARING

22 September 2015

Application for Consideration of an Application for Variation of a Licensed Premises Gaming Machine Permit for Strykers Bowl, Castle Grounds, River Drive, Tamworth, B79 7ND under the Gambling Act 2005

On the Wednesday, 30th September, 2015 at 10.00 am in Committee Room 1 - Marmion House

Membership: Councillor Margaret Clarke, Councillor Michael Oates and Councillor Roy Rogers

Decisions will only be taken when all three Councillors are in attendance at the hearing. In the event of one Member being unable to attend, another member of the full Licensing Committee will substitute their place. If a substitution does take place, all parties will be informed of the change at the beginning of the hearing

SCHEDULE

- 1 Appointment of Chair**
- 2 Apologies**
- 3 Declarations of Interest**
- 4 Consideration of an application for variation of a licensed premises gaming machine permit for Strykers Bowl, Castle Grounds, River Drive, Tamworth, B79 7ND under the Gambling Act 2005 (Pages 1 - 22)**

(The Report of the Director of Assets and Environment)

DOCUMENTS ENCLOSED *Please read carefully*

Report of the Licensing Authority including any representations received

Procedure to be followed at the Hearing

Information on your rights at the Hearing

Reply form for you to fill in and send back to the Licensing Authority

(Please complete and return, the information given is a requirement of the Licensing Act 2003)

CONTACT

Licensing Department: ☎01827 709445 ✉ publicprotection@tamworth.gov.uk

Democratic Services: ☎01827 709265 ✉ committees@tamworth.gov.uk
www.tamworth.gov.uk

**Please note:- That hearings may be recorded.
That hearings may be cancelled at short notice.**

LICENSING SUB-COMMITTEE

WEDNESDAY 30 SEPTEMBER 2015

REPORT OF THE DIRECTOR ASSETS & ENVIRONMENT

CONSIDERATION OF AN APPLICATION FOR VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT FOR STRYKERS BOWL CASTLE GROUNDS RIVER DRIVE TAMWORTH B79 7ND UNDER THE GAMBLING ACT 2005.

EXEMPT INFORMATION

Not applicable

PURPOSE

To consider an application for variation of a licensed premises gaming machine permit in respect of Strykers Bowl Castle Grounds River Drive Tamworth Staffordshire B79 7ND.

RECOMMENDATIONS

That Members determine the application submitted on behalf of NAMCO UK Limited for the variation of a licensed premises gaming machine permit under Section 283 and Schedule 13 of the Gambling Act 2005 to make available for use on the premises 15 Category C and 35 Category D gaming machines in respect of Strykers Bowl Castle Grounds River Drive Tamworth.

EXECUTIVE SUMMARY

A permit is required under the Gambling Act 2005 to operate gaming machines in alcohol licensed premises.

Namco Operations Europe Limited has submitted an application for the variation of a licensed premises gaming machine permit to now operate 15 Category C and 35 Category D gaming machines in Strykers Bowl Castle Pleasure Grounds River Drive Tamworth. There has been a change in the classification of certain types of gaming machines that were formerly operated as skill games which are now treated as games of chance. As a consequence of this change, some machines on this site will need to be included in the permit, thus ensuring that the premises holds the correct permissions for the machines on the site.

This application has not been granted under officers' delegated powers because the licensing authority's Gambling Act 2005 Statement of Principles (2013 – 2016) requires that applications for a licensed premises gaming machine permits for more than five gaming machines in alcohol licensed premises be referred to a Licensing Sub-Committee for determination.

RESOURCE IMPLICATIONS

If the decision of the Licensing Committee is appealed there will be a cost implication.

LEGAL/RISK IMPLICATIONS BACKGROUND

The following parties are entitled to appeal against the decision of the Licensing Sub Committee

- The applicants for the variation of the licensed premises gaming machine permit.

SUSTAINABILITY IMPLICATIONS

The effective regulation of licensing activities contributes to the strategic priority of being healthier and safer in Tamworth

CONCLUSIONS

The Committee is obliged to determine this application with a view to promoting the three licensing objectives under the Gambling Act 2005 which are:

- preventing gambling from being a source of crime and disorder; being associated with crime of 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.

BACKGROUND INFORMATION

When the Gambling Act 2005 came into force on 1 September 2007, alcohol licensed premises received an automatic entitlement to provide up to two gaming machines, on the premises, providing they comply with a simple notification procedure. However, Licensed Premises Gaming Machine Permits are required for provision of more than two machines.

Sections 279 to 284 of the Gambling Act 2005 cover the making available of gaming machines for use in public houses and similar premises. The provisions only apply to premises which are licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises, and that have a bar at which alcohol is served, without a requirement that alcohol is served only with food.

The Gambling Act 2005 allows two types of gaming machines to be provided for use in alcohol licensed premises. These are category C and category D machines. The maximum stake and prizes for each machine are detailed on the Gambling Commission web site at the following link

<http://www.gamblingcommission.gov.uk/pdf/appendix%20b.pdf>

Licensing authorities may issue licensed premises gaming machine permits for any number of category C or D machines in licensed premises. The licensing authority can cancel a permit or vary the number of machines on a permit. The permit's duration is indefinite because it is linked to the Premises Licence issued under the Licensing Act 2003.

Strykers Bowl is a ten pin bowling centre located on on River Drive opposite the Snowdome and adjacent to the Castle Grounds. The facilities include 26 lanes of tenpin bowling, a fast food restaurant, junior and a toddler play areas, a games area including a selection of gaming machines. There are also licensed bars serving the facilities. The location of Strykers Bowl is shown shaded in grey on the location plan given in **Appendix 1**.

At the present time, the Strykers Bowl premises benefits from a licensed premises gaming machine permit that took effect on 13 July 2010. This permit authorises the making available for use, the following categories of gaming machines:

Category C gaming machines – 15

Category D gaming machines – 25

On the 12 August 2015 Tamworth Borough Council received an application from PopplestonAllen Solicitors acting on behalf of the applicant NAMCO UK Limited for the variation of the licensed premises gaming machine permit.

A copy of the application is given at **Appendix 2**.

Members should note that since making the application, the applicants have requested an amendment to the application. They wish to remove the request for unlimited Category D machines and substitute with the following:

Category C – 15 machines (as is permitted currently)

Category D – 35 machines (which is an increase of 10 machines)

PopplestonAllen have detailed the reasons why it has been necessary for this application to be submitted in their covering letter and supporting documents that accompanied the application form (**Please see Appendix 2**).

In summary, following discussions between BACTA which is the industry association representing manufacturers and distributors of gaming machines, games manufacturers and the Gambling Commission, certain types of machines currently operated as skill machines with a maximum £1 stake and £50 non- monetary prize, will now be classed as category D non complex crane grab machines. Therefore as a consequence of this change the existing machines on the premises that have now been reclassified and fall into the category D non complex crane grab machines will need to be added to the permit. This will ensure the premises hold the correct permissions for the machines on site.

The applicants have provided additional information which gives details of other premises owned by NAMCO UK Limited which hold licensed premises gaming machine permits with unlimited numbers of machines and also those with a large number of machines, for the information of committee members. Please refer to **Appendix 2**.

The Gambling Commission expects that where a new permit or a variation to an existing permit is required from the licensing authority as a result of this change in classification of machines, then the process must be under way by 31 August 2015 and the relevant permission must be granted and in place by 31 December 2015.

The Gambling Commission has issued Gambling codes of practice – Consolidated for all forms of gambling (May 2015). Section C deals with Gaming Machines in clubs and premises with an alcohol licence. The code requires compliance with provisions relating to the location and operation of machines. Failure of operators to do so could result in revocation of the permit. A link to the current code of practice is as follows:

<http://www.gamblingcommission.gov.uk/pdf/Gambling-codes-of-practice---Consolidated-for-all-forms-of-gambling.pdf>

The Gambling Commission has also issued guidance regarding non complex category D machines, (August 2015). This document provides some pictorial examples of the type of machines concerned that have now been reclassified and fall into the category D non complex crane grab machines. The link to this document is as follows:

<http://www.gamblingcommission.gov.uk/pdf/Non-complex-cat-D-gaming-machines-August-2015.pdf>

The licensing authority's Gambling Act 2005 Statement of Principles (2013 – 2016) requires that applications for licensed premises gaming machine permits for more than five gaming machines in alcohol licensed premises be referred to a Licensing Sub-Committee for determination.

The licensing sub committee must consider the application, and determine the application having regard to the three licensing objectives under the Gambling Act 2005 which are:

- preventing gambling from being a source of crime and disorder; being associated with crime of 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.

In making its decision with a view to promoting the licensing objectives the Committee must also have regard to:

- The application and any additional supporting information provided by the applicants
- The Council's own Gambling Act 2005 - Statement of Principles (2013 – 2016).
- The Gambling Commission Guidance to licensing authorities (4th edition) September 2012.

Local Statement of Principles

A link to Tamworth Borough Council's Gambling Act Statement of Principles (2013 – 2016) is as follows:

http://www.tamworth.gov.uk/sites/default/files/community_docs/Gambling%20Act%20Statement%20of%20Principles_2013_16.pdf

Part A Section 1 of the policy covers the licensing objectives, Part A sections 8 and 9 cover the Licensing Process and Delegation of Functions and Licensing Authority Functions respectively.

Part C section 21 covers Alcohol Licensed Premises Gaming Machine Permits.

Gambling Commission Guidance

A link to the Gambling Commission Guidance to licensing authorities 4th edition September 2012 relevant to this case is as follows:

<http://www.gamblingcommission.gov.uk/pdf/GLA4.pdf>

Part 1 paragraph 1.8 covers the licensing objectives; Part 4 deals with licensing authorities, responsibilities and delegations; Part 5 – principles to be applied by licensing authorities; Part 12 – Rights of appeal; Part 16 – Gaming Machines; Part 26 - 1 Premises licensed to sell alcohol and licensed premises gaming machine permits.

Right of Appeal

There is a right of appeal against the decision made by this Licensing Sub Committee. The Sub Committee is therefore expected to record in full the reasons for any decision that it makes.

The holder of the permit may appeal if the application is rejected, or if the number of machines permitted is fewer or of a different category of machines than applied for, or if the licensing authority gives a notice which cancels or varies the entitlements of the permit.

Any such appeal must be made to the Magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

REPORT AUTHOR

*"If Members would like further information or clarification prior to the meeting please contact Colin John Environmental Health Officer Telephone: 01827 709429."
Email: colin-john@tamworth.gov.uk*

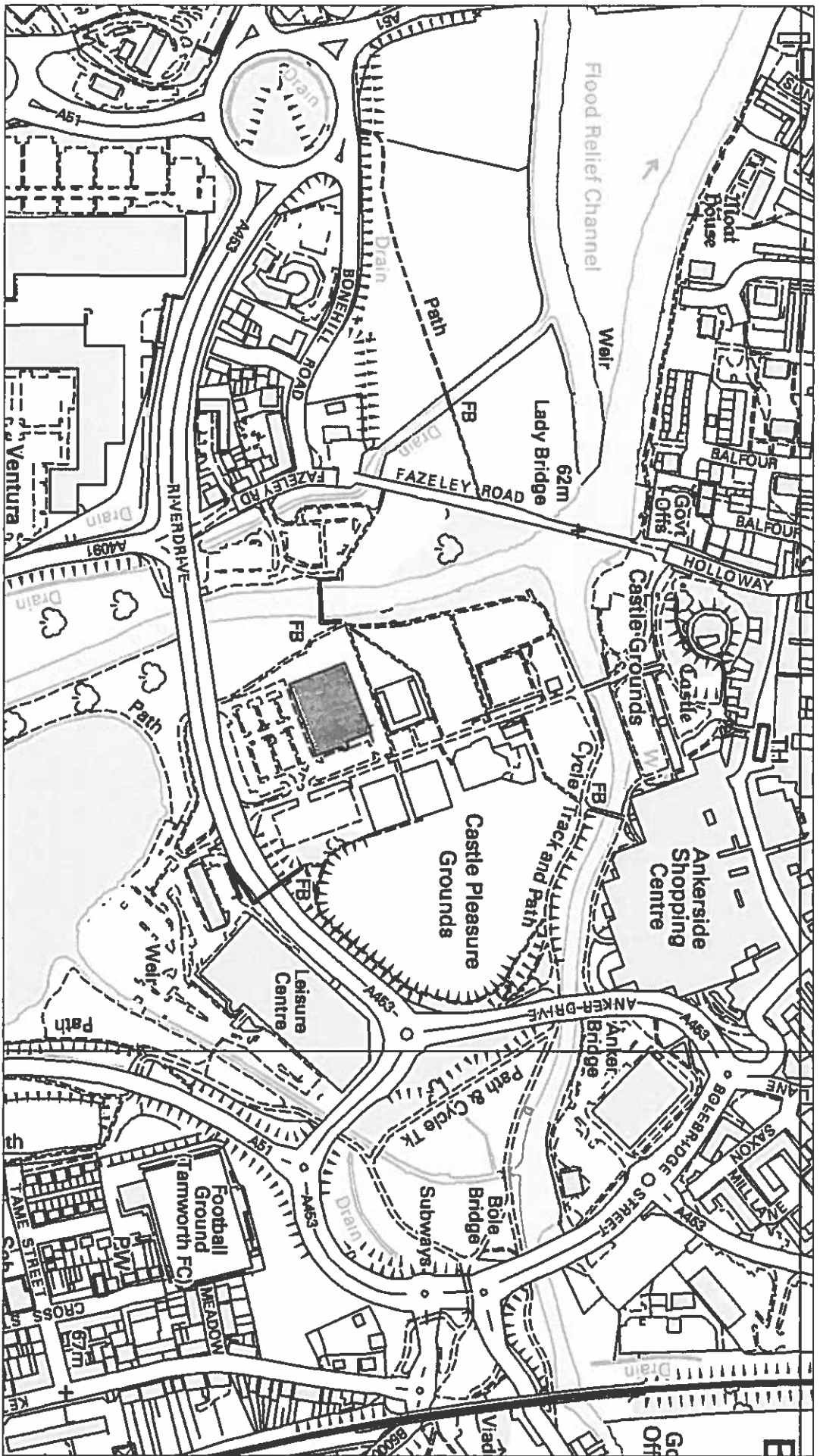
LIST OF BACKGROUND PAPERS

- Tamworth Borough Council Gambling Act 2005 - Statement of Principles (2013 – 2016)
- Gambling Commission Guidance to licensing authorities 4th edition September 2012
- The Gambling Commission - Guidance regarding non complex category D machines, (August 2015).

Appendices

Appendix 1	Location plan
Appendix 2	Application form and supporting documents

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Survey
Ireland

This material has been reproduced from
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Appendix 2

Licensing Authority
Tamworth Borough Council
Marmion House
Lichfield Street
Tamworth
Staffordshire
B79 7BZ

Detachable & Environment	
Date	12 AUG 2015
Category	D Cg R100 <i>Alleano</i>
Value	150164
Officer	MF

Date: 10 August 2015
Our ref: AG/AG/P15499-656
Doc Ref: 2145146415
Your ref:
E-mail: a.gardner@popall.co.uk
Direct line: 0115 9349 157

Dear Sirs

Strykers Bowl, Castle Grounds, River Drive, Tamworth
Variation of Licensed Premise Gaming Machine Permit

We act for NAMCO UK Limited and are instructed to submit an application to vary the Licensed Premises Gaming Machine Permit (LPGMP) for the above premises.

We therefore enclose:-

1. Application for variation of the LPGMP
2. Copy LPGMP
3. Cheque in the sum of £100.00
4. Urgent brief to all BACTA members
5. Gambling Commission Bulletin

This application is necessary as some games currently operated as skill games will, in the future, be treated as games of chance. This follows discussions between BACTA, the industry association which represents manufacturers and distributors of gaming machines, Bandai Namco Entertainment Limited and Sega (both manufacturers of games), and the Gambling Commission. As a result of these discussions, certain types of machines currently operated as skill machines, with a maximum £1 stake and £50 non-monetary prize, will be classed as Category D non-complex crane grab gaming machines. Our client, NAMCO UK Limited, operate some of these machines within their arcade premises and as a result, it is necessary for us to make this application to increase the number of Category D machines permitted on the licensed premises gaming machine permit.

I have attached BACTA's brief to members on the reclassification of the machines, which provides further background on the discussions between the Gambling Commission and the industry.

The brief refers to options for operators as to the applications that may be necessary.

NAMCO UK Limited hold a licensed premises gaming machine permit for the premises and therefore a variation to this permit is necessary. NAMCO UK Limited operates a national

retail business providing gaming machines through both licensed and unlicensed arcades across the United Kingdom. NAMCO UK Limited is a leading national operator with clear and proactive policies to promote the Gambling Licensing Objectives.

NAMCO UK Limited has full authority to provide gaming facilities through the grant of an Operators' Licence by the Gambling Commission, which has approved the measures which NAMCO UK Limited has put in place to ensure that it implements effective anti-money laundering procedures and trades responsibly in accordance with gambling legislation, the licensing objectives and the Licence Conditions and Codes of Practice.

The Gambling Commission has published a licensing authority bulletin, referring to the circumstances which led to this application and we have included a copy for your assistance.

If you would like to contact the Gambling Commission, then please speak to Stuart McPhee or Nigel Owen on 0121 2306666.

The machines which are subject to this application have been legally provided within NAMCO UK Limited's premises for several years. This application is necessary due to the reclassification of these machines following discussions as described above and will allow NAMCO UK Limited to continue to make these gaming machines available for use at the premises.

The current application seeks to maintain the existing gaming provision at the premises whilst retaining flexibility on site. NAMCO UK Limited operates other unlimited provisions across its estate, which provide the freedom to offer a variety of gaming options and updates to its customers. We have considered the impact of the proposed variation and do not consider that additional steps beyond the existing management and operation of the premises are required to promote the licensing objectives and we do not believe that a successful grant of the application would have a detrimental impact.

If there is anything in the way that we have completed the attached forms that causes you concern, or if you believe there is some omission, please contact Angie Gardner on the above number so we can discuss it with you.

We should be grateful if you would acknowledge safe receipt of this letter and the relevant enclosures.

Yours faithfully



Poppleston Allen

Enc.

Tamworth Borough Council
NOTIFICATION OF 2 OR LESS GAMING MACHINES OR GAMING MACHINE PERMIT APPLICATIONS (i.e for greater than 2 machines) for: CONVERSION / NEW / VARIATION / TRANSFER

(FOR USE BY PREMISES LICENCES TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)
 Please refer to guidance notices at the back of this form before completing

SECTION A – What do you want to do 1. Please indicate what you would like do	
a) Notify licensing authority that you intend to provide up to a maximum total of 2 gaming machines category C and / or D <i>(If you choose this option please complete sections D and E)</i>	<input type="checkbox"/>
b) Apply to convert an existing Section 34 permit issued under the Gaming Act 1968, into a licensed premises gaming machine permit (ie for more than 2 gaming machines) <i>(if you choose this option then please complete sections B, D and E)</i>	<input type="checkbox"/>
c) Apply for a new licensed premises gaming machine permit <i>(if you choose this option then please complete sections B, D and E)</i>	<input type="checkbox"/>
d) Apply to vary an existing licensed premises gaming machine permit <i>(if you choose this option then please complete sections B, D and E)</i>	<input checked="" type="checkbox"/>
e) Apply to transfer an existing licensed premises gaming machine permit <i>(if you choose this option then please complete sections C, D and E)</i>	<input type="checkbox"/>

SECTION B – Application for grant (includes <u>conversion</u>, <u>new</u> and <u>variation</u> applications)			
2. How many gaming machines are you currently authorised to provide and if this is a new or variation application, how many do you wish to provided? (please complete the boxes in the table)			
Category machine	Number currently authorised to provide	Number wish to provide (new or variation)	
C	15	15	
D	25	Unlimited	
TOTAL	40	Unlimited	
3. If you are currently authorised to provide more than 2 machines, please provide your existing Section 34 Gaming Act 1968 permit, or provide reasons stating why it cannot be provided. Existing permit provided *			<input checked="" type="checkbox"/>
<i>(reasons why existing permit cannot be provided)</i>			

* Please keep a copy of your existing permit on the premises to which it relates

Tamworth Borough Council
NOTIFICATION OF 2 OR LESS GAMING MACHINES OR GAMING MACHINE PERMIT APPLICATIONS (i.e for greater than 2 machines) for: CONVERSION / NEW / VARIATION / TRANSFER

(FOR USE BY PREMISES LICENCES TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)
Please refer to guidance notices at the back of this form before completing

<p>SECTION C – Application for permit <u>transfer</u> (ie, where a transfer has been requested for the Licensing Act 2003 premises licence)</p> <p>4. Name of person requesting the transfer</p> <p>.....</p> <p>5. Confirmation that an application to transfer the relevant Licensing Act 2003 Premises Licence has been:</p> <p style="text-align: right;">Requested <input type="checkbox"/></p> <p style="text-align: right;">Granted <input type="checkbox"/></p> <p>6. Please provide your existing permit, or provide reasons stating why it cannot be provided</p> <p style="text-align: right;">Existing Permit provided <input type="checkbox"/></p> <p>Reasons why existing permit cannot be provided</p>	
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<p>SECTION D – General Information</p> <p>7. Name of Premises: Strykers Bowl</p> <p>8. Address of Premises: Castle Grounds, River Drive, Tamworth, B79 7ND</p> <p>9. Telephone number of Premises: 01827 68448</p> <p>10. Name of existing Premises Licence holder: NAMCO UK Ltd (formerly Namco Operations Europe Limited)</p> <p>11. Address of Premises Licence holder (if different from 8 above): Namco House, Acton Park Estate, The Vale, London, W3 7QE</p> <p>12. Telephone number (daytime) of Premises Licence holder: 0208 3246151</p> <p>13. E-mail address of Premises Licence holder (where available):</p> <p>14. Name, address, telephone and e-mail of agent (eg Solicitor) if submitted on behalf of the applicant:</p> <p>Angela Gardner, Poppleston Allen, 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS Tel : 0115 9349 157 Email : a.gardner@popall.co.uk</p> <p>15. Licensing Act 2003 Premises Licence Reference (ie number): PREM/05/0134</p>

Tamworth Borough Council
NOTIFICATION OF 2 OR LESS GAMING MACHINES OR GAMING MACHINE PERMIT APPLICATIONS (i.e for greater than 2 machines) for: CONVERSION / NEW / VARIATION / TRANSFER

(FOR USE BY PREMISES LICENCES TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)
Please refer to guidance notices at the back of this form before completing

SECTION E – Fee and Signature(s)

I enclose a sum of (£100.00) (cheques should be made payable to)

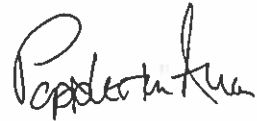


I understand that I must comply with the Gaming Machine Code of Practice for Alcohol Licensed Premise Permits and Permissions issued by the Gambling Commission. (see guidance note 8)

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: 10 August 2015

Signed (by or on behalf of Licensing Act 2003 Premises Licence holder)



Print Name: Poppleston Allen – Solicitors for & on behalf of the applicant

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)

Tamworth Borough Council
NOTIFICATION OF 2 OR LESS GAMING MACHINES or
GAMING MACHINE PERMIT APPLICATIONS (i.e. for greater than 2 machines) for:
CONVERSION / NEW / VARIATION / TRANSFER

Guidance notes:

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 for the conversion of an existing Section 34 gaming machine permit under the Gaming Act 1968, or for a new application, variation or transfer of a alcohol licensed premises gaming machine permit under the Gambling Act 2005.
2. The premises must be licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises, without the requirement that alcohol is served only with food and there must be a bar for serving alcohol to customers on the premises.
3. The gaming machines must be located on these licensed premises.
4. A 'Premises Licence holder' is a person holding a Premises Licence under the Licensing Act 2003.
5. There is no statutory limit to the number of machines which may be applied for although the licensing authority has some discretion in this regard. It should also be noted that the licensing authority can cancel the permit or vary the number of machines should the premises be mainly used for making gaming machines available for use on the premises (Schedule 13 paragraph 16 Gambling Act 2005). You may therefore wish to contact the licensing authority to ask whether there is a local policy as regards applications and whether application for certain numbers of machines are decided via a hearing of local councilors.
6. The permit's duration is indefinite as it is linked to the Licensing Act 2003 Premises Licence. There is a first annual fee payable by 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 £50.00. There are no annual fees payable for 2 machines or less.
7. Sections 282 and 283, as well as SI 2007 / of the Gambling Act 2005 provide for two types of gaming machines which can be located in alcohol licensed premises. These are:
 - a category C gaming machine has a maximum cash stake £1.00 and prize £70
 - A category D gaming machines can have different maximum stake and prizes depending on the type of machine:-
 - Where the prize is money the maximum stake 10p and cash prize £5.
 - Where the prize is not money the maximum stake is 30p and the maximum prize value is £8.
 - For mixed money and non money prize gaming machines the maximum stake is 10p and maximum prize value £8 of which £5 can be cash.
 - For crane grab machines only, which have non money prizes, maximum stake £1 and the maximum prize value £50.
 - For coin pushers or penny fall only the maximum cash stake is 10p and maximum prize value is £15 which can include up to £8 maximum of cash.
8. All alcohol licensed premises which provide gaming machines for use on the premises 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 the code of practice please contact the Gambling Commission or your local Council licensing service.
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.
10. Where you are notifying the local licensing authority of 2 machines or less, you may wish to request an acknowledgement of receipt of the notification. The form attached to this application can be utilised for this purpose.



14 July 2015

URGENT BRIEF TO ALL BACTA MEMBERS

Dear BACTA Member

CRANE-LIKE MACHINES OPERATED AS SWPS TO BE RECLASSIFIED AS GAMES OF CHANCE

Following discussions with the Gambling Commission, this brief explains that certain types of machines currently operated as SWPs with a maximum £1 stake and £50 non-monetary prize, such as Key Master or Barber Cut, will be classed as Category D non-complex crane grab machines. This will require in some cases premises licences to be obtained or amended and, potentially, non-certificated operators, to obtain an operator's licence from the Gambling Commission.

BACKGROUND

The Gambling Commission has consistently advised Local Authorities and the trade that crane grab machines are games of chance and should therefore require appropriate permits to be in place before they are sited. They have expressed concern furthermore that premises such as entire shopping centres do not constitute premises wholly or mainly for the provision of gambling and therefore should not be granted a premises licence covering the whole venue.

In looking again at this issue at the back end of 2014, the Gambling Commission began work with BACTA and a number of manufacturers/distributors, principally Namco and Sega, to understand better how cranes and machines that function in a similar way determine prize winners. It was clear following discussions that most machines that operate a mechanical arm or device of some kind to select a prize and which employed a compensator unit to effectively determine the percentage payout of the machine, were games of chance and skill combined. Given the majority of these machines (other than cranes) were operated as games of skill, with a maximum £1 stake and £50 non-monetary prize (in accordance with the characteristics required of SWPs agreed some time ago by the GC and BACTA), there was a clear need to determine how best to regularise the permitting arrangement for these machines in a way that would not adversely impact on the market.

One key concern was that as games of chance (Category D non-complex) the maximum stake and prize permitted would be only 30p with and £8 non-monetary prize, clearly making these machines unviable.

Following further discussion and relevant advice, the Gambling Commission has determined that the definition of a crane grab machine in the Gaming Machine (Amendment) Regulations 2009 (No 1502) covers these types of machines as well as what one would consider traditional cranes. The definition is given below:

A crane grab machine is a reference to a non-money prize machine in respect of which—

(i) every prize which can be won as a result of using the machine consists of an individual physical object (such as a stuffed toy), and

(ii) whether or not a person using the machine wins a prize is determined by the person's success or failure in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects;

The Gambling Commission has further agreed to replace the current definition of a crane grab machine in the Category D non-complex Technical Standards with this definition. This means that despite the categorisation of these machines as gaming machines the maximum stake and prize can continue to be £1 and the maximum permitted non-monetary prize will be £50. A cash prize of any amount whether individually or combined with a non-monetary prize is not permitted.

Following agreement on these points BACTA has now agreed with the Gambling Commission that it would inform its members and the trade, with manufacturers and distributors writing likewise to their customers, that where new permits or a variation to existing permits are required from the local licensing authority as a result of the reclassification of these machines, then the process must be underway by 31st August 2015. Furthermore we have agreed that the premises licences should be granted and in place by 31st December 2015.

If there are any operators that do not currently have an operator's licence from the Gambling Commission but who are currently operating these types of machines on the assumption they are SWPs, then an application for an operator's licence should be made to the Commission before the 31st August 2015.

In practice the majority of these machines will be located in FECs and therefore there should be no disruption to their operation as Category D gaming machines are permitted in licensed and unlicensed FECs.

However, a number of alcohol licensed premises, namely pubs, have increasingly made Category D machines available for customers and have as a result obtained the relevant licence from the local licensing authority to operate a number of Cat D machines (typically cranes) alongside their Cat C machines. Where the premises have also made available the types of machines covered by this brief, they will need to be added to the number of Category D machines permitted on the premises. An application for a variation in the licence will therefore need to be made to the local licensing authority. We are looking to work with Local Authorities to ensure this is done in a way that provides no business disruption ie that there is no sudden insistence that a machine is disabled to ensure compliance on numbers with existing permits. That would be unreasonable. We will also suggest that a fee should not be charged by licensing authorities as the requirement for a variation came about effectively through a reclassification of an existing machine.

A sticker (available from BACTA) should be displayed on the machine indicating it is a Category D gaming machine.

The Commission has made it clear that where there is no prospect of a licence being obtained, that is to say where a machine(s) are located in premises that are not wholly or mainly for the provision of gambling, then the affected machines should be removed from site. This is likely to be mainly shopping centres and similar.

Members are requested to make their members or staff and/or customers aware of the contents of this brief and to note in particular the deadlines of 31st August and 31st December 2015 referenced above.

I enclose a copy of the letter BACTA has received from the Gambling Commission on this matter for your records.

I also provide a summary of the position for ease of reference.

If you are in any doubt about which machines are covered by this brief then please consult your supplier.

Please also note that the above is not legal advice and BACTA cannot be held liable for the consequences of decisions based upon it.

Yours sincerely

John White
Chief Executive

SUMMARY

- Certain games currently operated as skill games should be treated as games of chance
- A full list of such games is available from manufacturers and distributors of affected games who have written to customers directly.
- The games concerned operate in a similar fashion to cranes, that is to say a mechanical arm or similar is used to select a prize and a compensator unit determines the outcome of the game.
- Any machine which is a genuine game of skill, offers a guaranteed prize or a prize every time is not covered by this brief. Note: If the same machine can be configured as either a prize every time or as a gaming machine you should check with your supplier to ensure you apply for an appropriate licence if applicable.
- As a consequence of this reclassification, machines affected must be supplied only by a certificated operator and located only in premises with an appropriate premises licence.
- FECs will already have the correct licence.
- Alcohol licensed premise may have to obtain or obtain a variation to their premises licence
- The process to obtain or vary a licence (or to obtain an operator's licence) must be underway by 31st August 2015 and the process must be complete by 31st December 2015.
- Machines that are unlikely to be granted a licence should be removed from site immediately.
- The maximum price of play can continue to be £1 and the maximum non-monetary prize £50. No cash prizes or combined cash and non-monetary prizes are permitted.
- These machines are classified as Category D non-complex crane grab machines.
- A sticker should be displayed on the machine indicating it is a Category D gaming machine.
- A list of machines affected is available from your supplier.



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News

LGA Councillor handbook on gambling

The Local Government Association (LGA) has published a **councillor handbook on gambling** for councils in England and Wales. The handbook outlines licensing authorities' responsibilities for gambling in their areas, and summarises recent changes to the social responsibility requirements binding on gambling operators. These changes will have significant implications for both operators and licensing authorities, and are intended in part to help licensing authorities develop the localised approaches to gambling regulation.

The LGA had previously set out their suggestions of what to include in their Statements of Policy – moving away from the previous template that LAs had followed.

Classification of crane machines

The Commission has recently been working with the trade body BACTA and machine suppliers in order to reinforce the message that certain types of machine, currently operated as skills with prizes (SWPs), with a maximum stake of £1 and £50 non-monetary prize, should be correctly labelled as category D non-complex crane grab machines.

In some cases premises licences may be needed or amended in order to site these machines and some unlicensed operators will have to apply for a Gambling Commission operator's licence.

Whilst the majority of machines of this nature are operated as cranes within adult gaming and family entertainment centres (FECs) under the category D stake and prize limits there has been a recent trend whereby they are being offered to the public, particularly children and purported to be a skill machine as opposed to a gaming machine without the necessary permissions to do so. This occurs in pubs, shopping centres, motorway service stations and other similar venues.



Furthermore, as stated in the October 2014 bulletin, machines which are capable of being used as a gaming machine, whether or not they are currently operating as a gaming machine, are classified as a gaming machine. For example, a machine fitted with a compensator, which allows it to be converted from a skill machine to a gaming machine, is classified under the Act (s 235) as a gaming machine.

BACTA and the Gambling Commission are in agreement that machines utilising a mechanical arm, or similar device to select a prize and which employ a compensator unit to determine the percentage pay-out of the machine, needed to be clearly marked as a gaming machine (skill and chance combined). In addition they may only be operated in premises where the necessary permissions are in force.

"The law has long been clear in this area and it is a matter of regret that the need for action has arisen at all," said Matthew Hill, Gambling Commission director, regulatory risk and analysis. "Nevertheless, we welcome BACTA's support and cooperation in putting the matter beyond doubt."



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The Commission has set out a timetable by which those wishing to make such machines available to the public should obtain the necessary permissions and where required adjust the stake and/or prizes available accordingly.

- Where a new permit or a variation to an existing permit is required from the local licensing authority as a result of this clarification, then the process must be underway by 31 August and the premises licence must be granted and in place by 31 December 2015.
- Similarly, an operator, that is currently operating these types of machine on the assumption they were SWPs, must apply for an operator's licence to the Gambling Commission by 31 August 2015. (Check the [Commission's register](#) of those who hold or have applied for an operators' licence).

The Commission is developing a quick guide to assist licensing and enforcement staff as to which machines are affected. Meanwhile, LAs may wish to seek written reassurance from those entities siting machines that they comply with the regulatory requirements.

LAs are also reminded about the broader requirements around unlicensed family entertainment centres (uFECs) and FECs as set out in the [October 2014 special bulletin](#), particularly that only premises that are wholly or mainly used for making machines available may hold an uFEC permit or FEC premises licence.

Sustainable Communities Act decision

The Department for Communities and Local Government has rejected the submission from Newham Council under the Sustainable Communities Act to reduce the maximum stake on category B2 gaming machines from £100 to £2 per spin.

The announcement by Marcus Jones MP, Minister of State for Local Government, states 'We are not convinced that local authorities have yet made the most of the powers that are already available to them under either planning law or gambling law.'



The letter notes the changes to planning law introduced in April this year which require planning permission to be obtained for any new betting shop.

The response goes on to state 'while local authorities are bound by law to aim to permit gambling (so long as it is reasonably consistent with the licensing objectives) ...the licensing process gives authorities considerable scope to attach additional conditions to licences where that is necessary to achieve the licensing objectives; to review licences once they have been granted; and the power to impose licence conditions after review.

As regards the authority's statement of policy the letter states that 'in only a very few cases have authorities used the statements to engage fully with the gambling picture in their area and engage with communities and businesses about how it should be managed.'

Test purchasing

We are supporting several local authorities across England and Wales to conduct underage test purchases in gambling premises, over the summer months.

Using our national risk assessment, businesses that do not provide us with evidence of the effectiveness of their underage control measures, or where there are questions marks over the robustness of that evidence, will be the focus of the tests in the summer.

NAMCO UK LIMITED						
PREMISE NAME	ADDRESS	TOWN	LICENCE TYPE	RELEVANT AUTHORITY	NUMBER OF MACHINES	
Number Ten	Charter Way	Braintree	Licensed Premises Gaming Machine Permit	Braintree District Council	Unlimited machines	
Dagenham Bowling	Dagenham Leisure Park, Cook Road	Dagenham	Licensed Premises Gaming Machine Permit	London Borough of Barking & Dagenham	Unlimited machines	
Namco Station	County Hall, Riverside Building, Westminster Bridge Road	London	Licensed Premises Gaming Machine Permit	London Borough of Lambeth	Unlimited machines	
Namco Funscape	1 Garden Walk, The MetroCentre, Swalewell	Gateshead	Licensed Premises Gaming Machine Permit	Gateshead Council	200 machines (30 Cat C and 170 Cat D)	
Namco Funscape	Unit 1.4 The Orient, Trafford Centre	Manchester	Licensed Premises Gaming Machine Permit	Trafford Metropolitan Borough Council	200 machines (20 Cat C and 180 Cat D)	

