

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

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| Appendix 1 | Location plan |
| Appendix 2 | Application form and supporting documents |