

LICENSING ACT SUB-COMMITTEE

Application to Vary a Gaming Machine Permit in Licensed Premises – The Kings Arms (TBK The Kings Arms and Popworld at the Kings Arms) 2 November 2018

Report of Principal Licensing Officer

PURPOSE OF REPORT

For Members to determine an application received from Poppleston Allen Solicitors on behalf of the Kings Arms (TBK The Kings Arms and Popworld at the Kings Arms), 248-250 Marine Road, Morecambe to vary the number of gaming machines permitted to be sited within the premises.

This report is public.

RECOMMENDATIONS

- (1) That Members determine the application in line with the Council's scheme of delegation and Statement of Gambling Policy, and with regard to the relevant legislation and codes of practice.
- (2) That Members consider the options available to them.

1.0 Introduction

- 1.1 The Licensing Authority has received an application for a Gaming Machine Permit from Poppleston Allen Solicitors on behalf of the Kings Arms under Sch.13 of the Gambling Act 2005 ("the Act") for 6 gaming machines to be sited within the premises.

Details of the application for a Gaming Machine Permit are set out in the application form, which is attached as **Appendix 1** to this report.

- 1.2 The Kings Arms benefits from a Premises licence issued under s.17 of the Licensing Act 2003 authorising the sale of alcohol and has an automatic entitlement to make available 2 gaming machines (Category C or D).
- 1.3 For Members' information, Category C gaming machines allow a maximum stake of £1 and a maximum prize of £100. Category D gaming machines allow a maximum stake of 10p and a maximum prize of £5 cash. Category D machines also include crane grabbers and penny fall machines. The maximum stake is £1 and the prize is up to £10 cash and £50 non-monetary prizes.

- 1.4 To take advantage of this entitlement, premises licence holders must give notice to the Licensing Authority and pay the prescribed fee (currently £50). The Licensing Authority has no discretion in this situation.
- 1.5 Where a premises wishes to have more than 2 gaming machines, it needs to apply for a Gaming Machine Permit. The Council's Statement of Gambling Policy states that each application will be determined on a case by case basis. A copy of the relevant parts of the Council's Statement of Gambling Policy is attached at **Appendix 2**.
- 1.6 The Council's scheme of delegation does not authorise officers to determine applications where the application is for more than 4 gaming machines.

2.0 Proposal Details

- 2.1 As the application is for the siting of 5 category C and 1 category D machines, it is necessary to bring the application before the Committee for decision.
- 2.2 Members should be satisfied that the granting of the said permit will not undermine the licensing objectives and that the applicant is aware of the positive steps required to promote the licensing objectives.
- 2.3 The Act contains 3 licensing objectives which 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; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.4 The Licensing Authority can only have regard to these objectives when carrying out their functions under the Act.
- 2.5 The Gambling Commission's published Code of Practice provides the requirements that must be complied with by the Gambling Machine Permit Holder. This document is attached at **Appendix 3**.
- 2.6 The Licensing Officer was unable to visit the premises, due to the ongoing refurbishment. It is intended that the Licensing Officer visit the premises when they re-open to ensure compliance with the Code of Practice.
- 2.7 In accordance with the relevant Regulations, the parties have been given Notice of the Hearing. A copy of the Notice is attached for Members' attention at **Appendix 4**.

3.0 Details of Consultation

- 3.1 A representative of the Kings Arms has been invited to the Licensing Act Sub-Committee to discuss the application.
- 3.2 The Licensing Authority has consulted with Lancashire Police who have confirmed they have no objection to the application.

4.0 Options and Options Analysis (including risk assessment)

4.1 The options available to members, as outlined in sch.13(4)(2) of the Act, are:

- a) grant the application; or
- b) refuse the application; or
- c) grant the application in respect of -
 - (i) a smaller number of machines than that specified in the application;
 - (ii) a different category of machines from that specified in the application;
or
 - (iii) both (i) and (ii).

4.2 A licensing authority may not attach conditions to a permit (sch.13(5)(1).

4.3 If Members decide to refuse the application, the applicant shall be notified of the refusal and the reasons for it (sch.13(5)(3)(a) and (b).

4.4 Sch. 13(6)(2) requires that, if Members are minded to refuse the application, or grant an application in respect of a different category or smaller number of gaming machines than that specified in the application, they must have: -

(a) notified the applicant of their intention to refuse the application, or grant the application in respect of —

- (i) a smaller number of machines than that specified in the application;
- (ii) a different category of machines from that specified in the application;
or
- (iii) both; and

(b) given the applicant an opportunity to make representations.

This requirement is satisfied by giving the applicant the opportunity to make oral or written representations, or both.

5.0 Conclusion

5.1 Members should determine the application made by Poppleston Allen Solicitors on behalf of the Kings Arms to site 6 gaming machines within the premises in line with the Council's scheme of delegation and have regard to the relevant legislation and codes of practice. Members should also consider the options available to them.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

All licence holders have a right to a fair and public hearing.

One of the Licensing Objectives in the Gambling Act 2003 states that the legislation is in place to protect children and other vulnerable persons from being harmed or exploited by gambling.

FINANCIAL IMPLICATIONS

A decision of a Licensing Act Sub-Committee made under this section may be appealed to the Magistrates' Court. If successful, the costs would have to be met by the Council.

LEGAL IMPLICATIONS

The application meets the requirements of s.283 and sch.13 Gambling Act 2005.

In the event that the application is granted in whole or in part, under section 282 of the Gambling Act 2005, the location and operation of the machines must be in accordance with any relevant Code of Practice issued by the Gambling Commission.

The applicant has a right of appeal to the Magistrates' Court within 21 days of receiving notice of the decision to (i) reject the application or (ii) grant an application for a smaller number of machines than that specified in the application or a different category of machines from that specified in the application (or both).

BACKGROUND PAPERS

None

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