

## Appendices

- A. Category of Machines
- B. Gambling Commission Letter to LA's
- C. Applications
- D. Existing Permit
- E. Applicant Additional Literature
- F. Police Email



**NORTHAMPTON**  
BOROUGH COUNCIL

## LICENSING COMMITTEE REPORT

<b>Report Title</b>	<b>Gambling Act 2005 – Application for an UFEC Permit</b>
---------------------	---

**AGENDA STATUS: PUBLIC**

<b>Committee Meeting Date:</b>	26 April 2016
<b>Policy Document:</b>	Gambling Act 2005
<b>Directorate:</b>	Customers and Communities

### 1. Purpose

---

- 1.1 That the Committee consider 2 new applications for the new grant of an Unlicensed Family Entertainment Centre Gaming Machine Permit; and
- 1.2 That the Committee consider giving notice that an existing unlicensed family entertainment centre gaming machine permit is no longer being used as a family entertainment centre.

### 2. Recommendations

---

- 2.1.1 That the authority determine if it is satisfied that the areas defined within the Weston Favell Shopping Centre meet the criteria of being a 'premises' which is "wholly or mainly used for making gaming machines available" and whether the applicant has demonstrated that they will be able to meet the licensing objectives.
- 2.1.2 That the authority also determine if the current permit for the whole of the Weston Favell Shopping Centre also meets the above criteria.

### 3. Issues and Choices

---

#### 3.1 Report Background

- 3.1.1 The Gambling Act 2005 introduced two types of family entertainment centres.

- 3.1.2 The first being a licensed family entertainment licence (FEC) that requires both the premises and operator to be licensed; **and**
- 3.1.3 The second being an unlicensed family entertainment centre (UFEC) that requires neither a premises or operator licence, but will give premises users the ability to offer an unlimited number of category D machines by the grant of a family entertainment centre permit from the local authority.
- 3.1.4 Category D machines have a lower value of monetary prizes, therefore these permits are likely to be granted for places which are attractive to families and young people, for example seaside arcades. Young persons under the age of 18 are permitted to use category D machines. A table of machine categories is detailed in **Appendix A**
- 3.1.5 Applications for these types of permit may be made by an individual over 18 years of age, or a limited company and either must be:
- In occupation of the premises (or intending to be so); and
  - Proposing to use the premises as an unlicensed family entertainment centre.
- 3.1.6 Upon the UFEC application the local authority should have due regard to the local statement of licensing policy and the following three licensing objectives;
- Prevent gambling from being a source of crime or disorder
  - Ensure gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited
- 3.1.7 And must;**
- Have regard to guidance issued by the Gambling Commission
  - Local Police comments
  - Refuse if the applicant is not intending to use the premises as a Family Entertainment Centre
- 3.1.8 The local authority cannot attach conditions to a permit and if a permit is granted it will last for a period of 10 years, unless it is surrendered or lapsed. A UFEC permit may lapse if the licensing authority notifies the holder that the premises are not being used as a family entertainment centre.
- 3.1.9 A family entertainment centre is classified as a premises and s.238 of the Gambling Act states that a premises must be “wholly or mainly used for making gaming machines available”
- 3.1.10 The Gambling Commission wrote to a number of authorities in October 2014 concerning the grant and use of UFEC permits and stating that it is not desirable or permissible to grant a permit for a whole shopping centre.  
**Appendix B**

3.1.11 In January 2016 this local authority received two applications for a UFEC permit located in two different areas of the Weston Favell Shopping Centre. **Appendix C**

3.1.12 Upon application it was noted that the applicant had already been issued with UFEC permit in August 2014 for the whole of the Weston Favell Shopping Centre. **Appendix D**

3.1.13 These new applications seek to address the issue of premises being “wholly or mainly used for gaming machines” by specifying two particular areas to be used as a premise within the shopping centre.

3.1.14 The applicant was contacted about the concerns of granting this type of permit and having already been aware of the of the Gambling Commission guidance have submitted comprehensive additional literature to demonstrate how they intend to meet the necessary criteria. **Appendix E**

3.1.15 The local police authority have been consulted and commented as detailed in **Appendix F**

## **3.2 Issues**

3.2.1 The local authority need to determine if satisfied that the areas defined within the shopping centre meet the criteria of being a ‘premises’ and whether the applicant has demonstrated that they will be able to meet the licensing objectives.

3.2.2 The local authority need to decide if the current permit for the whole of the Weston Favell Shopping Centre meets the definition of being a premises “wholly or mainly used for gaming machines”

## **3.3 Choices (Options)**

3.3.1 Grant both of the applications and agree to issue a notice of lapse in respect of the existing UFEC for the whole of the Weston Favell Shopping Centre.

3.3.2 Refuse both of the applications and agree to issue a notice of lapse in respect of the existing UFEC for the whole of the Weston Favell Shopping Centre

3.3.3 Refuse both of the applications, but allow the existing UFEC to continue in respect of the whole of the Weston Favell Shopping Centre

## **4. Implications (including financial implications)**

---

### **4.1 Policy**

4.1.1 There are no implications to existing policies.

## **4.2 Resources and Risk**

- 4.2.1 Applicants and holders may appeal against refusals to grant or renew a permit, and also against 'lapsed notices' caused by the authority notifying the holder that the premises are not being used as an UFEC. If challenged there may be legal cost implications to the local authority.

## **4.3 Legal**

- 4.3.1 The licensing authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both. The applicant has rights to appeal the local authority decision in accordance with schedule 10 paragraph 22 of the Gambling Act 2005.
- 4.3.2 There has been guidance issued from the Gambling Commission to all relevant Local Authorities whereby there has been concern raised about making gaming machines available in appropriate environments or under poorly controlled circumstances.

One of the key intentions behind the Gambling Act 2005 was to curtail so called "ambient gambling". That is why gaming machines were removed from takeaways and taxi offices.

A Family Entertainment Centre premises must be wholly or mainly used for making gaming machines available as stated in Section 238 Gambling Act 2005. As a result it is generally not permissible for such premises to correspond to an entire shopping centre or similar, typically, the machines would be in a designated, enclosed area.

In reviewing the current permit of the applicants it is noted that the permits covers "The whole of Weston Favell shopping Centre" which is contrary to the guidance issued by the Gambling Commission.

The Committee ought to consider whether this is appropriate and if they are minded that it is not appropriate, to consider the option under Para 14 of Schedule 10 Gambling Act 2005 and whether to determine to lapse the current licence and notify the holder of this.

## **4.4 Equality**

- 4.4.1 No Equality and Diversity implications have been identified.

## **4.5 Consultees (Internal and External)**

- 4.5.1 Northamptonshire Police Authority  
Legal

## **4.6 Other Implications**

4.6.1 None identified.

## **5. Background Papers**

---

- 5.1 Gambling Act 2007
- 5.2 Gambling Commission 5<sup>th</sup> Edition Guidance (s.24)
- 5.3 NBC Statement of Licensing Policy 2016 - 2019
- 5.4 Gambling Commission Circular Letter October 2014

**Louise Faulkner**  
**Senior Licensing Officer**