

Appendices

- A. Application
- B. Alcohol On Sales Premises Licence
- C. Code of Practice
- D. Machine Categories



NORTHAMPTON
BOROUGH COUNCIL

LICENSING COMMITTEE REPORT

Report Title	Gambling Act 2005 – Application for an LPGM Permit
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	23 July 2018
Policy Document:	Gambling Act 2005
Directorate:	Customers and Communities

1. Purpose

1.1 That the Committee consider an application for the new grant of an Alcohol Licensed Premises Gaming Machine Permit ('a LPGM Permit).

2. Recommendations

2.1.1 That the authority determine if it is satisfied that the applicant has demonstrated that they will be able to meet the licensing objectives and that it is in all the circumstances appropriate to grant a permit.

3. Issues and Choices

3.1 Report Background

3.1.1 An application for the conversion of an existing section 34 gaming machine permit was received by post on the 15th May 2018 from West One Manor Hotel Ltd for a total of 15 machines in respect of the alcohol licensed premises at Westone Manor Hotel, Fir Tree Walk, Northampton, NN3 3DS. A copy of the application is detailed in **Appendix A**.

3.1.2 The applicant West One Manor Hotel Ltd became the Premises Licence Holder for the Westone Manor Hotel in October 2013. A copy of the alcohol premises licence is detailed in **Appendix B**.

3.1.3 Section 34 gaming machine permits were issued by the magistrate's courts in accordance with section 34 of the Gambling Act 1968(Repealed). Applicants

were required to convert these permits in accordance with the Gambling Act 2005 during a transitional period in 2009 and/or when these permits expired.

- 3.1.4 It is noted that the premises did not have an existing notification, or gaming machine permit granted in accordance with section 34 of the Gaming Act 1968 or in accordance with the Gambling Act 2005. Therefore the attached application must be treated as a new application for an LPGM Permit for a total of 11 category C machines and 4 category D machines.
- 3.1.5 The Gambling Act 2005 allows for alcohol licensed premises to either give a notification or apply for an LPGM Permit.
- 3.1.6 Qualifying alcohol licensed premises are entitled (under Automatic Entitlement) to provide two gaming machines of category C or D upon giving notification to the licensing authority (LA). Automatic Entitlements are only applicable to alcohol licensed premises, where there are bar facilities available on the premises for the sale and consumption of alcohol.
- 3.1.7 In order to site more than two category C or D gaming machines, an alcohol licensed premises must acquire an LPGM permit from the relevant local authority.
- 3.1.8 It is then at the local authority's discretion to consider the application and whether to issue a permit. Where a gaming machine permit authorises the making available of a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to, any automatic entitlement to two machines.
- 3.1.9 The Gambling Commission is responsible for licensing manufacturers and suppliers of gaming machines and advises operators to obtain machines from Commission-licensed suppliers. Similarly, permit holders and those applying for permits for clubs, alcohol-licensed premises or family entertainment centres will also be advised through Commission guidance to obtain gaming machines from Commission-licensed suppliers.
- 3.1.10 Pubs that make machines available to the public either under Automatic Entitlement or an LPGM Permit must only do so during the hours that the premises licence allows the sale of alcohol. They should also adhere to the Code of Practice for gaming machines in clubs and premises with an alcohol licence. A copy of the code of practice for gaming machines is detailed in **Appendix C**.
- 3.1.11 The Code of Practice particularly emphasises the importance of preventing underage access to machines not suitable for those under 18 (category C and above). It is the responsibility of the Designated Premises Supervisor to ensure that any machines made available on the premises are supervised either by staff or other means, in order to prevent under-age access on under 18 prohibited machines.
- 3.1.12 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 D**

3.1.13 Upon application for an LPGM permit the local authority should have due regard to the Gambling Commission guidance and the following three licensing objectives;

- Prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensure that gambling is conducted in a fair and open way; and,
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.1.14 The local authority may also consider such other matters as it considers relevant. The local authority must show how and why any other matters which are taken into account are relevant to the application. The latest version of the Gambling Commission Guidance was published in September 2015 and updated in 2016, paragraphs 26.8 to 26.22 are relevant.

3.1.15 A local authority cannot attach conditions to an LPGM permit and if a permit is granted it will last for a period of 10 years, unless it is subject to earlier termination. The modes for termination are;

- The permit holder ceases to be the holder of an on-premises alcohol licence,
- Notice of surrender,
- Failure to pay the annual fee, unless an administrative error has occurred,
- A court convicting the holder or an officer of the holder of a relevant offence may order forfeiture of the permit, and may forfeit on terms, including as to suspension,
- Cancellation and forfeiture.

3.1.16 The local authority may cancel a permit or vary the number and/or category of machines where it thinks that:

- It would not be reasonably consistent with the pursuit of the licensing objectives for the permit to continue to have effect;
- Gaming has taken place other than in accordance with the permit or a condition thereof;
- The premises are mainly used or to be used for making gaming machines available,
- An offence under the Act has been committed on the premises.

3.1.17 Before cancelling or varying a permit, the local authority must give the permit holder 21 days in which to make representations and attend a hearing, if he requests one, and must also comply with any prescribed procedural requirements.

3.2 Issues

- 3.2.1 The local authority need to determine if it is satisfied that the applicant will be able to meet the licensing objectives and code of practice and that it is appropriate to grant the application taking account of any other relevant factors.

3.3 Choices (Options)

- 3.3.1 Grant the application
- 3.3.2 Grant the application for a smaller number of gaming machines and / or a different category of machines from that specified in the application.
- 3.3.3 Refuse the application

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 a permit, or the grant of a permit for a lesser number or different category of gaming machines than requested. 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 hearing before the committee will be an opportunity to make oral representations.
- 4.3.2 The applicant has rights to appeal the local authority decision to the magistrates' court in accordance with schedule 13 paragraph of the Gambling Act 2005.
- 4.3.3 The licensing authority must have regard to the matters set out in paragraph 3.1.13 of this report and give clear reasons for its decision.
- 4.3.4 This report sets out the framework in which applications are made and must be considered by the licensing authority and the steps which may be taken in the event of problems arising after grant of an LPGM permit.

4.4 Equality

4.4.1 No Equality and Diversity implications have been identified.

4.5 Consultees (Internal and External)

4.5.1 Legal

4.6 Other Implications

4.6.1 None identified.

5. Background Papers

5.1 Gambling Act 2007

5.2 Gambling Commission 5th Edition Guidance

5.3 NBC Gambling Statement of Licensing Policy 2016-2019

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