

Report of	Meeting	Date
Director of Director of Public Protection, Street Scene and Community	Licensing Act 2003 Sub-Committee	4 November 2015

THE GAMBLING ACT 2005; APPLICATION FOR A GAMING MACHINE PERMIT FOR MORE THAN 2 GAMING MACHINES.

PURPOSE OF REPORT

- To bring to the attention of Members an application received from Poppleston Allen Solicitors in respect of an application for a Gaming Machine Permit for more than 2 gaming machines for a premise licensed under the Licensing Act 2003 known as The Highfield Restaurant Southport Rd Leyland.

RECOMMENDATION(S)

- Members are recommended to consider the contents of the report and any representations made by the representative of Mitchells and Butler Leisure Retail Ltd and determine whether or not to grant the application.

EXECUTIVE SUMMARY OF REPORT

- Poppleston Allen Solicitors made application under Schedule 13, of the Gambling Act 2005 for a Gaming Machine Permit for 2 or more gaming machines on behalf of Mitchells and Butler Leisure Retail Ltd being the premises licence holder for The Highfield Restaurant. The application is attached as **Appendix 1**. The Council's Statement of Gambling Policy states that each application will be determined on a case by case basis, the Council's scheme of delegation does not authorise officers to determine the application where the application is for more than 2 gaming machines.

Confidential report Please bold as appropriate	Yes	No

CORPORATE PRIORITIES

- This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	

BACKGROUND

- The Council has received an application made under Schedule 13 of the Gambling Act 2005 for more than 2 gaming machines for the public house The Highfield Restaurant. The premises benefits from a Premises licence issued under Section 17 of the Licensing Act

2003 authorising the sale of alcohol, this authorisation is a pre-requisite to enable the above application. The Premises Licence PLA0138 and Plan are attached as **Appendix 2**.

6. Where a premises wishes to have more than two machines, then it needs to apply for a Gaming Machine permit and the Authority will consider that application based upon the licensing objectives, the Guidance, and such matters as they think relevant. 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. This Authority considers that such applications will be decided on a case-by-case basis, but generally there will be regard for the need to protect children and vulnerable persons from harm or being exploited by gambling. The Licensing Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Additionally, Notices and signage may also be of assistance. With regard to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as Gam Care. It is important that staff are able to see if the machines are being played by any adults with a gambling problem.
7. Officers attended the premises on 8 October 2015 to assess the suitability of the premises to accommodate additional gaming machines in line with the application received. It was noted that two existing Category C gaming machines on the premises are positioned in an area of the premises reserved for over 18s only together with a skills machine. Other areas of the premises are designed as family friendly and the premises promotes its self as such offering a childrens ball play area, extensive restaurant facilities, three crane grab machines and a number of novelty machines dispensing toys. There was no evidence that the premises promoted any advice or guidance to its staff or public in relation to the use or control of the machines. The premises presently benefits from a Gaming Machine Permit for 2 category C machines and 1 category D machine, the application received seeks authority to introduce one additional category D machine.
8. The current Designated Premises Supervisor was not available at the time of the officer visit to the premises.
9. Members will be aware that the following machines were being made available to the public at the time of the licensing visit 8th October 2015;
 - 2 x Cat C gaming machines (located within the over 18s area)
 - 1 x skills machine (located within the over 18s area) (genuine skill machines are outside the allotted quota of machines in the Gambling Act 2005)
 - 2 x grab machines (within the main restaurant area)
 - 5 x toy dispensing machines (within the main restaurant area)
 - 1 x grab machines (within the soft ball area)
10. Members will be aware of the recent notification received by the Gambling Commission attached as **Appendix 3**, giving clarification to what category grab machines might fall into given the type of construction, operation and specification. Given the complexity of the different types of grab machines available and the technical specifications offered by the various manufactures officers are not able to determine what category the existing grab machines fall into, there was no obvious marking on the machines as required to advise the public. On 9 October 2015 Officer sought clarification of this issue via the applicants solicitor.
11. Officers received a set of operating instructions for one Prize Zone Crane, this indicates that the machine to which it relates would fall into a Cat D machine, attached as a

Appendix 4. Officers have requested clarification as to which grab machine or machines the manual relates, however at the time of writing this report had not received a reply.

12. Officers will offer a verbal update as to the status of the further two grab machines at the hearing should we receive such confirmation.
13. In determining this matter Members shall have consideration for the following provisions;
Chorley Council's Statement of Gambling Policy. Attached as **Appendix 5.**

Members are reminded of the Gambling Act 2005 licensing objectives which are;

- (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - (b) Ensuring that gambling is conducted in a fair and open way, and
 - (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
14. The Gambling Commissions published code of practice provides the requirements that must be complied with by the Gambling Machine Permit Holder. The document is attached at **Appendix 6.** The guidance is applicable to all licensed premises in relation to any number of gaming machines that are provided.
 15. Member's attention is drawn to the committee's discretion in determining this matter which is prescribed within Schedule 13 Section 283 of the Gambling Act 2005 which states they may:
 - a) Grant the application,
 - b) Refuse the application,
 - c) Grant it in respect of;
 - 1) A smaller number of machines than that specified in the application,
 - 2) A different category of machines from that specified in the application, or
 - 3) Both.
 - d) Members may not attach conditions to a permit.

The applicant in respect of this application has been invited to attend the hearing and make representation.

IMPLICATIONS OF REPORT

16. This report has implications in the following areas and the relevant Directors' comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

COMMENTS OF THE MONITORING OFFICER

1. Under Schedule 13 of the Gambling Act 2005 members must have regard to the licensing objectives contained in the Gambling Act 2005, national guidance issued by the Gambling Commission the latest edition of which was published in September 2015 and such other

matters as they think are relevant. It would be reasonable for members to have regard to the Council's own statement of gambling policy.

Other relevant considerations would be the location of the proposed machines so that staff could clearly see minors or problem gamblers attempting to play the machines and intervene. Also the location is a relevant consideration for fire safety.

Provisions of the Human Rights Act 1998 are relevant to the application, including but not limited to Article 1, Protocol 1 (peaceful enjoyment of possessions) and Article 6 (right to a fair hearing). In the event that the application is granted in whole or in part then 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)

JAMIE CARSON
DIRECTOR OF PUBLIC PROTECTION, STREETSCENE AND COMMUNITY

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
S Culleton	5665	9 October 2015	