

Report of	Meeting	Date
Director of Early Intervention & Support	Licensing Act 2003 Sub-Committee	30 April 2016

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 Red Rose Leisure, on behalf of Mr Nick Burton in respect of an application for a Gaming Machine Permit for more than two gaming machines in relation to a premise licensed under the Licensing Act 2003 The Colliers Arms, 30 Moor Road, Chorley PR7 2LN.

RECOMMENDATION(S)

- Members are recommended to consider the contents of the report and any representations made by the representative of Mr Burton and determine whether or not to grant the application.

EXECUTIVE SUMMARY OF REPORT

- Red Rose Leisure made application under Schedule 13 of the Gambling Act 2005, for a Gaming Machine Permit for two or more gaming machines on behalf of Mr Burton being the premises licence holder for the The Colliers Arms, 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 such applications for more than 2 categories C or D gaming machines.

Confidential report Please bold as appropriate	Yes	No
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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	x
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 two gaming machines for the licensed premises now known as The Colliers Arms. 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 PLA0386 and Plan are attached as **Appendix 2**, the plan indicates the location of the three existing Gaming Machines, the

application does not include a updated plan to indicate the location of any additional machines. The premises currently benefit from a gaming machine permit for 3 category C Machines, GMP0005 issued on 16 July 2013, the permit is attached at **Appendix 3**

6. Officers would bring to the attention of Members the matter of the application for more than 2 gaming machines previously received on 10 June 2013, this application was granted by officers that were unaware of the scheme of delegation to determine such applications at the time.
7. Officers attended the premises on 2 June 2016 to assess the suitability of the premises to accommodate additional gaming machines in line with the application received. Officers noted that the premises had 4 Cat C Gaming machines in situ, where a permit for 3 machines exists. The matter was brought to the attention of the Manager and Mr Burton at the time, Mr Burton apologised for the additional Machine and explained that he did not realise that the application required a committee hearing for it to be determined; Officers accepted this explanation given the manner in which the previous application had been determined. Mr Burton immediately complied with officer's request to remove the fourth Gaming Machine. Officers have reviewed the circumstances of this matter and in light of the explanation offered by Mr Burton and the previous actions of the Council in the administration of the previous application, believe it would not be reasonable to peruse the matter as a compliant.
8. One of the four Gaming Machines present (A) is compromised in terms of being able to be monitor the machine at any time. The manager was offered words of advice in relation to the sighting of this machine at the time of the visit; this machine was immediately removed as previously discussed. The remaining 3 Gaming Machines are sited appropriately. There was no evidence of any supporting information, positive steps or advice to customers relating to problem/addiction gambling.
9. Where a premises wishes to have more than two machines, then it must apply for a Gaming Machine permit where the licensing Authority will consider that application based upon the licensing objectives, the statutory 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 those 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, and in the sight of staff that are able to monitor the machines are not being used by those under the age of 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, or who may have a gambling problem.

In determining this matter Members shall have consideration for the following provisions;

Chorley Council's Statement of Gambling Policy. Attached as **Appendix 4**.

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.

10. The Gambling Commission's published Code of Practice provides the requirements that must be complied with by the Gambling Machine Permit Holder. The document is attached at **Appendix 5**. The guidance is applicable to all licensed premises in relation to any number of gaming machines that are provided.

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

IMPLICATIONS OF REPORT

12. 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

13. 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 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.
14. 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.
15. 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).
16. 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.
17. 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
DEPUTY CHIEF EXECUTIVE / DIRECTOR EARLY INTERVENTION & SUPPORT

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
S Culleton	5565	17 June 2016	***