

Licensing Sub-Committee 4 - 28th August 2012

Report of the Director of Corporate Resources

Application for a Licensed Premises Gaming Machine Permit

Purpose of Report

1. To consider the application for the grant of a Licensed Premises Gaming machine permit for six category C machines in respect of The Abraham Darby, Merry Hill Centre, Brierley Hill, West Midlands.

Background

2. The Abraham Darby holds a current premises licence for the following:-

Late night refreshment

Sunday to Thursday	23.00 – 00.00
Friday and Saturday	23.00 – 01.00
Christmas Eve & Boxing Day	23.00 – 02.00

Sale of alcohol

Sunday to Thursday	08.00 – 00.00
Friday and Saturday	08.00 – 01.00
Christmas Eve & Boxing Day	08.00 – 02.00

Exhibition of a film

Sunday to Thursday	09.00 – 00.00
Friday and Saturday	09.00 – 01.00
Christmas Eve & Boxing Day	09.00 – 02.00

On New Years Eve until the terminal hour for the sale of alcohol on New Years Day

For an additional hour on Burns Night (25/1), Australia Day (26/1), St David's Day (1/03), St Patricks Day (17/3), St Georges Day (23/04), St Andrews Day (30/11), Thursday immediately preceding Good Friday and Sunday immediately preceding a Bank Holiday Monday.

3. The Local Authority licensing policy states as follows:-

- If authorisation is sought for more than two category C or D machines the applicant will be required to attend a hearing to support the application. All plans submitted with applications for premises licences must set out the siting of each category C or D machine.
- Parliament has placed no restrictions on the age at which such machines may be played (other than those in amusements arcades). It is, therefore, a matter for the discretion of the premises licence holder and any adult accompanying the children concerned whether they are entitled to play such machines. In the case of premises used exclusively or primarily for the consumption of alcohol, all children under the age of 16 will only be permitted entry to the premises if accompanied by adults. All such machines must be sited in accordance with the Gaming Act, further advice will be given on receipt of application.
- There is unlikely to be the need for a hearing where the application is for renewal of the existing permit for more than two machines or where the application is for the grant of a Licensed Premises Gaming Machine Permit at premises which already have an existing permit for more than two machines, and where that number is not increased.

4. On the 3rd August 2006, an application was received from Leisure Link in respect of the Abraham Darby, for the grant of three gaming machine permits, this matter was considered by the Committee on the 12th November 2006. The Committee resolved that the application be granted.

5. On the 13th February 2007, an application was received from Link Leisure in respect of the Abraham Darby for the grant of four gaming machine permits. This matter was considered by the Committee on the 10th April 2007. The Committee resolved that the application be granted.

6. On the 23rd November 2009, a further application was received from J D Wetherspoon in respect of the Abraham Darby for the grant of five gaming machine permits. This matter was considered by the Licensing Sub-Committee on the 5th January 2010. The Committee resolved that the application be granted.

7. On the 18th July 2012, J D Wetherspoon made application for the grant of a further Gaming Machine Permit for 6 category C machines. A copy of that application together with a plan of the premises showing the position/proposed position of the machines has been circulated to Committee Members and interested parties.

8. The current licence holder of the premises licence is JD Wetherspoon Ltd. The premises currently have a licensed premises gaming machine permit which entitles them to have up to 5 category c machines.

9. This application falls within the Council's responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

10. There are no financial implications.

Law

11. Pursuant to schedule 13, section 283 of the Gaming Act 2005 the Council can grant a licensed premise gaming machine permits.
12. Pursuant to schedule 13, section 283 4 (2) on considering an application for a permit the Licensing Authority shall:-
 - (a) grant an application
 - (b) refuse the application, or
 - (c) grant it 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
13. Pursuant to schedule 13, section 283 5
 - (1) A Licensing Authority may not attach conditions to a permit
 - (2) As soon as is reasonably practicable after granting an application a Licensing Authority shall issue a permit to the applicant
14. Pursuant to schedule 13, section 283 5(3) as soon as it reasonably practicable after refusing an application a Licensing Authority shall notify the applicant of:-
 - (a) the refusal, and
 - (b) the reasons for it
15. In pursuance of schedule 13, section 283 6 (2) a Licensing Authority may not refuse an application, or grant an application in respect of a different category or smaller number of gaming machines than that specified in the application, unless they have
 - (a) notified the applicant of their intention to refuse 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 than that specified in the application or
 - (iii) both, and

- (b) given the application an opportunity to make representations
16. In pursuance of schedule 13 section 283 6 (3) a Licensing Authority can satisfy the opportunity to make representations by giving the applicant an opportunity to make:-
- (a) oral representations
 - (b) written representations, or
 - (c) both
17. In pursuance of schedule 13 section 283 21 (1) the applicant for a holder of a permit may appeal to the Magistrates Court if the Licensing Authority:-
- (a) reject an application for a permit
 - (b) grant an application for a permit in respect of a smaller number of machines than that specified in the application or a different category of machines from that specified in the application

Equality Impact

- 18. This report complies with the Council's policy on equal opportunities.
- 19. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
- 20. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

- 21. That the Sub-Committee give consideration to this application.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers