

**Licensing Sub-Committee 2 – 14<sup>th</sup> January 2009**

**Report of the Interim Director of Law and Property**

**Application for a Licensed Premises Gaming Machine Permit**

**Purpose of Report**

- 1 To give further consideration to the application for the grant of a Licensed Premise Gaming machine permit for three machines in respect of The Foley Arms, 309 Hagley Road, Pedmore, Stourbridge, West Midlands.

**Background**

2. The Foley Arms holds a current premises licence for the following:-

Playing of Recorded Music

Permitted 24 hours in pursuant of section 182 Licensing Act 1964.

Sale of Alcohol

Monday to Sundays 10.00 am – 1.00 am

End of permitted hours on New Years Eve to commencement of permitted hours on New Years Day plus non standard timings as per operating schedule.

Exhibition of a Film

Mondays to Sunday 10.00 am - 1.00 am plus non-standard timings as per operating schedule

Late Night Refreshment

Monday to Sunday 10.00 am – 1.00 am plus non standard timings as per operating schedule

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 adults 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 27<sup>th</sup> October, 2008, an application was received from Poppleston Allen, Solicitors in respect of the Foley Arms for the grant of Licensed Premises Gaming Machine Permit for three machines. A copy of that application is attached to this report, as Appendix 1.
5. The current licence holder of the premises licence is Mitchells & Butlers Leisure Retail Limited and the current designated premises supervisor is Mr. J.M. Parsons.
6. This matter was considered by the Sub-Committee on the 16<sup>th</sup> December 2008 when it was resolved that the application be refused on the grounds that the Sub-Committee is not satisfied that the proposed site of the third Category C Gaming Machine would be in full and unobserved view of the whole Bar.
7. On the 5<sup>th</sup> January, 2009 Poppleston and Allen, Solicitors representing the Foley Arms, requested that the Sub-Committee undertake a site visit of the premises.
8. On the same date the Licensing Officer contacted the Sub-Committee who agreed that they would be willing to conduct a site visit to the Foley Arms.
9. Following the site visit the Sub-Committee will give consideration to the current application, or alternatively may request that a further application be submitted to the Council for an agreed positioning of the Category C Games Machine and that the determination of that application be delegated to the Interim Director of Law and Property.
10. This application falls within the Council's responsibility for licensing as a direct link to the Council's key corporate priority that safety matters.

## **Finance**

11. There are no financial implications.

## **Law**

12. Pursuant to schedule 13, section 283 of the Gaming Act 2005 the Council can grant a licensed premises gaming machine permits.
13. 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
14. 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.
15. 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
16. 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 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 applicant an opportunity to make representations
17. 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
18. 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**

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

### **Recommendation**

22. That the Sub-Committee give further consideration to this application following the site visit to the Foley Arms.



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INTERIM DIRECTOR OF LAW AND PROPERTY

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### **List of Background Papers**

None