

DUDLEY METROPOLITAN BOROUGH

LICENSING AND SAFETY COMMITTEE

24th JANUARY 2006

REPORT OF THE DIRECTOR OF LAW AND PROPERTY

APPLICATION FOR GRANT OF A GAMING PERMIT

PURPOSE

1. To consider the application made by Mark Stanley for the grant of a permit for the use of gaming machines for gaming under Section 34 (5E) of the Gaming Act 1968 at 17 The Moor Centre, Brierley Hill, West Midlands.

BACKGROUND

2. Mr Stanley made application for the grant of a Section 34 (5E) permit to allow him to operate amusement-with-prizes machines at 17 The Moor Centre, Brierley Hill, West Midlands. A copy of that application is attached as Appendix 1.
3. The application was circulated to the West Midlands Fire Service, West Midlands Police, and the Directorate of the Urban Environment.
4. The West Midlands Fire Service made comments which are attached to this report as Appendix 2. None of the other agencies raised objections.
5. Objections were received from RAL Limited, a copy of there letter of objection is attached to this report as Appendix 3.

PROPOSAL

6. That the Committee considers the application made by Mark Stanley for the grant of gaming permit under Section 34 (5E) of the Gaming Act 1968.

FINANCE

7. There are no financial implications.

LAW

8. The Council is the appropriate Authority for the purpose of considering applications for the grant of a permit to sue machines for gaming, under Section 34 and Schedule 9 of the Gaming Act 1968.
9. Under Paragraph 8(1)(a) of Schedule 9, the Council has absolute discretion as to whether or not to grant a permit.
10. The Council has exercised its powers under Paragraph 3(b) of Schedule 9 to the Gaming Act, 1968 and has declared that it will not henceforth grant or renew permits for the provision of amusements with prizes by way of machines where food or drink is sold for consumption on or off the premises.
11. This Council Resolution would not be applicable if the premises are to be used as an Amusement Arcade.
12. If the Committee decides that this application is not in contravention of the resolution passed by the Council under Paragraph 3 of Schedule 9 of the Gaming Act, 1968, then it is open to the Committee to proceed to determine the application and to either grant or refuse it.
13. If the Committee decides to grant this application, then it is open to the Committee to grant the application subject to a condition limiting the number of machines which may be made available on the premises.
14. If the Crown Court is satisfied the application falls within a resolution passed under Paragraph 3(b) of Schedule 9 to the Gaming Act, 1968, and by virtue of it that it was the duty of the Council to refuse it, the Crown Court shall not allow the appeal.
15. If the Committee decides that the application can be granted without contravening the resolution passed under Paragraph 3 of Schedule 9 of the Gaming Act, 1968, but nevertheless proceed to refuse it, then there is an appeal against the decision of the Committee not to grant this permit to the Crown Court.

EQUAL OPPORTUNITIES

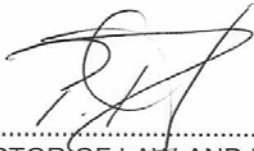
- 16 The Council's policy on equal opportunities has been taken into consideration in the preparation of this report.

RECOMMENDATION

17. That the Committee determines this application.

BACKGROUND PAPERS

18. Application form.

A handwritten signature in black ink, appearing to be 'J. Elliott', written over a dotted line.

.....
DIRECTOR OF LAW AND PROPERTY

Contact Officer: Mrs J Elliott - Ext 5377

GAMING ACT 1968
section 34

876524 24/10/05 APPENDIX 1
£250.00

Application for [grant] ~~[renewal]~~ of permit for the use of machines for gaming
by way of amusement-with-prizes, for the purposes of section ~~[34(1)]~~ [34(5E)]
of the Gaming Act 1968

To the (1) DUDLEY METROPOLITAN BOROUGH COUNCIL

I MARK STANLEY
of GAMING MACHINE RENTALS LTD
BINGO WORLD, UNIT 1. 46-50 GREAT BRIDGE
GREAT BRIDGE TIPTON DY14 7EW

HEREBY APPLY for the [grant] ~~[renewal]~~ of a permit for the use of machines for gaming for the
purposes of section ~~[34(1)]~~ [34(5E)] of the Gaming Act 1968 on the premises known as

UNIT 17 THE MOOR CENTRE BRIERLY HILL DUDLEY

within the district of the above-named local authority, of which premises I ~~[am]~~ [propose, if the permit is
granted, to become] the occupier.

The premises ~~[are]~~ [will be] established and conducted for the purposes of

AN AMUSEMENT CENTRE

and it is proposed to use machines of the following type(s) (2):

[all-cash amusement-with-prizes machines] UNLIMITED NUMBER

~~[other amusements with prizes machines]~~

~~[amusement machines*]~~

(3) [Admission to the ~~[designated areas within the]~~ premises will be limited to persons aged 18 or over.]

(3) [I understand that, if granted, the permit will be subject to the conditions set out in paragraph 10B of
schedule 9 to the Gaming Act 1968 and that where applicable there will be other conditions for designated
areas as set out in paragraph 10B (3)(b) of that schedule.]

I undertake to observe the statutory conditions applicable.

(4) ~~[A permit, No _____ was granted to me by the said authority on (5) _____]~~

I enclose the sum of (6) £ 250.00 , being the fee payable on this application.

Dated 21 OCTOBER 2005

Signed

MARK STANLEY

NOTES

Delete any words or figures within square brackets which do not apply

*Permits are not required for amusement machines other than amusement-with-prizes machines.

(1) Insert the name of the local authority within whose area the premises are situated.

(2) Insert number of machines in each case.

(3) To be completed only if the application is for all-cash machines for the purposes of section 34(5E) of the Act.

(4) To be completed only if the application is for renewal.

(5) Insert date.

(6) The fee payable for a section 34(1) permit is fixed by regulations; the fee for a section 34(5E) permit is fixed by the local authority. Please enquire of the
authority as to the current fee before making the application.

WEST MIDLANDS FIRE SERVICE

F.J.E. Sheehan QFSM
Chief Fire Officer

Fire Service Headquarters
Lancaster Court, Edgbaston, Birmingham B4 7DE

Oldbury Fire Safety Centre
Old Park Lane, Oldbury, West Midlands B69 4PU

Date 15 December 2005
Your Ref
Our Ref MOORCENTRE.DEC/FIRESAFE/CW/JG
Tel No 0121 544 7209
Mobile No 07813 919766
Please ask for Station Officer Whittington
E-Mail colin.whittington@wmfs.net

Dear Madam

Gaming Act 1968
Unit 17 The Moor Centre Brierley Hill

I am in receipt of application for the grant of a permit for the use of gaming machines (Section 34 (SE)) within the above premises. As the premises have not yet been occupied, the Fire Authority have been provided with a plan of the intended layout of the premises. Following an examination of the plan the Fire Authority will have no objection to the grant of a permit provided the following points are made a condition of such a grant:

- The premises is to be provided with adequate emergency lighting throughout.
- The applicant to notify the Fire Authority once occupation of the unit is completed so that a final inspection can be carried out.

Should you require any further assistance in this matter please contact me at the address given above.

Yours faithfully


pp Fire Safety Centre Manager

FAO Angela Wright
Dudley Metropolitan Borough Legal and
Property Services
Licensing Office
5 Ednam Road
DUDLEY
West Midlands DY1 1HF

FAO Mr Mark Stanley
Gaming Machines Rentals Ltd
Bingo World
Unit 1 46-50 Great Bridge
Tipton
West Midlands
DY14 7EW

FAO Angela Wright
Dudley Metropolitan Borough Legal and
Property Services
Licensing Office
5 Ednam Road
DUDLEY
West Midlands DY1 1HF



RAL LIMITED

Our Ref: BE/BSD/10794

19th October 2005

Mrs J Elliot
Licensing Officer
Dudley Metropolitan Borough Council
Directorate of Law & Property
Legal & Democratic Services Dept
5 Ednum Road
Dudley
DY1 1HL



Dear Mrs Elliot

**RE: GAMING ACT 1968 – PROPOSED AMUSEMENT CENTRE AT
17 MOOR CENTRE, BRIERLEY HILL, WEST MIDLANDS, DY5 3AH**

Your colleagues in the Planning Department at Dudley Metropolitan Borough Council have recently granted planning consent for a change of use to that of amusement centre at the above premises. We understand that you are likely to receive a Section 34 Gaming Permit application in the near future.

This company operates the Quicksilver gaming centre premises at 48 High Street, Brierley Hill, and we would like you to note our objection to such an application, should it be made. We believe that there are already sufficient numbers of amusement / gaming centres in the town centre, namely our own premises at 48 High Street and the Sun Valley premises, also in the High Street. There is also a Cash Bingo Club in the High Street and, whilst this club requires a membership, the premises still provide a further outlet for a substantial number of gaming machines.

We would respectfully point out that Home Office guidance to local authorities allows them an unfettered discretion in the grant or refusal of Section 34 Permits and states that:

Home Office Circular No 100/1988

"3.272

Para 4 – A local authority's discretion to refuse to grant a Permit is unaffected by the fact that planning permission may previously have been obtained for the use of the premises as an amusement place. We see the discretion as entrusted to local authorities on general grounds transcending planning considerations. This implies that, in considering an application, an authority should take careful account of the social considerations obtaining in its area. It may be, for example, that there are already sufficient amusement places in the area or that they are being over-frequented by children or young people."

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BACTA

Silbury Court 368 Silbury Boulevard Milton Keynes MK9 2AF

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Registered Office: RAL Limited Silbury Court 368 Silbury Boulevard Milton Keynes MK9 2AF Registered in England No. 1940045



We would suggest that "there are already sufficient amusement places in the area".

We understand from your Licensing Department that, following due consideration, it may be your authority's practice to grant these Permits under delegated authority. We would respectfully refer you to Article 6 of the Convention for the Protection of Human Rights (Treaty of Rome) which provides that, in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing.

We would ask that you advise us if and when an application is received as we may well wish to add to our objection once the details of the applicant are known.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Byron Evans', with a stylized, flowing script.

Byron Evans

Commercial Director

Direct Dial: 01908 246 113

Mobile: 07970 148 003

Email: byronevans@talarius.com