

**DUDLEY METROPOLITAN BOROUGH**

**LICENSING AND SAFETY COMMITTEE**

**28<sup>th</sup> FEBRUARY 2006**

**REPORT OF THE DIRECTOR OF LAW AND PROPERTY**

**APPLICATION FOR GRANT OF A GAMING PERMIT**

**PURPOSE**

1. To consider the application made by Andrew Mosley for the grant of a permit for the use of gaming machines for gaming under Section 34 of the Gaming Act 1968 at The Staff Restaurant, Sainsbury Superstore, Merry Hill.

**BACKGROUND**

2. On the 3<sup>rd</sup> October 2005, Mr Mosley made application for the grant of a Section 34 permit to allow him to operate amusement-with-prizes machines at The Staff Restaurant, Sainsbury Superstore, Merry Hill. 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. No objections were received from the West Midlands Police and the Planning Officer.
5. The Director of the Urban (Environment) and the West Midlands Fire Service made no comments.
6. This report has a direct link to the Council priority for safety as the principal reason for submission is safeguarding the public.

**PROPOSAL**

7. That the Committee considers the application made by Andrew Mosley for the grant of gaming permit under Section 34 of the Gaming Act 1968.

**FINANCE**

8. There are no financial implications.

### **LAW**

9. The Council is the appropriate Authority for the purpose of considering applications for the grant of a permit to use machines for gaming, under Section 34 and Schedule 9 of the Gaming Act 1968.
10. Under Paragraph 8(1)(a) of Schedule 9, the Council has absolute discretion as to whether or not to grant a permit.
11. 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.
12. This Council Resolution would not be applicable if the premises are to be used as an Amusement Arcade.
13. 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.
14. 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.
15. 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.
16. 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**

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

### **RECOMMENDATION**

18. That the Committee determines this application.

**BACKGROUND PAPERS**

19. Application form.

John Poyellis

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DIRECTOR OF LAW AND PROPERTY

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