

Licensing Sub-Committee 2 – 16th December 2008

Report of the Interim Director of Law and Property

Application for Amusement with Prizes Machines Permit

Purpose of Report

- 1 To consider the application for the grant of an amusements with prizes machines 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:-

- The Licensing Authority will be prepared to grant without a hearing, permits authorising up to two Section 34 Gaming Act machines in any premises. If authorisation is sought for more than two 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 Amusement with Prizes 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 an Amusements with Prizes permit at premises which already have an existing permit for more than two machines, and where that number is not increased.

4. On the 27th October, 2008, an application was received from Poppleston Allen, Solicitors in respect of the Foley Arms for the grant of an Amusements with Prizes 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 application falls within the Council's responsibility for licensing as a direct link to the Council's key corporate priority that safety matters.

Finance

7. There are no financial implications.

Law

8. Pursuant to schedule 13, section 283 of the Gaming Act 2005 the Council can grant a licensed premises gaming machine permits.

9. 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
10. 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.
11. 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
12. 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
13. 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

14. 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

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

Recommendation

18. That the Sub-Committee determine the application.



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INTERIM DIRECTOR OF LAW AND PROPERTY

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List of Background Papers

None