

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	13TH NOVEMBER 2012
TITLE OF REPORT:	APPLICATION FOR VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT FROM 3 TO 4 IN RESPECT OF 'THE ROSE & CROWN, 152 LEDBURY ROAD, HEREFORD HR1 1RG' – SECTION 283 GAMBLING ACT 2005
PORTFOLIO AREA:	PEOPLES SERVICES DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Hereford

Purpose

To consider an application for the variation of a Licensed Premises Gaming Machine Permit from 3 to 4 machines in respect of 'The Rose & Crown, 152 Ledbury Road, Hereford, HR1 1RG.'

Key Decision

This is not a Key Decision.

Recommendation

THAT Sub-Committee determine the variation with a view to promoting the licensing objectives which are:

- a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- b) ensuring that gambling is conducted in a fair and open way, and
- c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

The committee should also take into consideration

The 'Guidance to Licensing Authorities 4th Edition' issued by the Gambling Commission

Herefordshire Council Gambling Policy

Gaming Machine Permits Code of Practice - Club Gaming Permits and Club Machine Permits - Alcohol Licensed Premises Permits and Permissions - June 2007 issued by the Gambling Commission

Key Points Summary

- Application to increase to 4 machines an increase of 1
- Officers do not have devolved powers to issue.

Options

- 1 (a) grant the 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.

Reasons for Recommendations

- 2 Ensures compliance with the Gambling Act 2005

Introduction and Background

3 Background Information

Applicant	Green King Retailing Ltd PO Box 337, Abbot House, Bury St Edmunds, Suffolk, IP33 1QW
Solicitor	None
Type of application:	Licensed Premises Gaming Machine Permit

Licence Application

- 4 The application is for the grant of a Licensed Premises Gaming Machine Permit for 4 machine of Category C or D.
- 5 The premises licence holder has given notification of automatic entitlement in respect of 2 machines under Section 282 of the Gambling Act 2005.
- 6 Section 282 however restricts the premises to only 2 machines.

- 7 To enable premises to have more than 2 machines application had to be made for a Licensed Premises Gaming Machine Permit which the premises already has been granted.
- 8 This application is to increase the number of machines on the permit from 3 to 4.
- 9 A plan of the proposed locations of the machines is attached within the background papers.

Key Considerations

- 10 Schedule 13 paragraph 4(1) states:

A licensing authority to whom an application is made under this Schedule shall consider it having regard to the licensing objectives, any relevant guidance issued by the Commission under section 25 and such other matters as they think relevant.

Community Impact

- 11 The granting of the licence as applied is unlikely to have any impact on the Community.

Legal Implications

- 12 Schedule 13 of the legislation states that:

- 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.
(3) As soon as is reasonably practicable after refusing an application a licensing authority shall notify the applicant of—
(a) the refusal, and
(b) the reasons for it.
- 6 (1) A licensing authority may grant an application under this Schedule only if the applicant holds an on-premises alcohol licence.
(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 the application, 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 from that specified in the application, or
(iii) both, and
(b) given the applicant an opportunity to make representations.
(3) A licensing authority may satisfy sub-paragraph (2)(b) by giving the applicant an opportunity to make—
(a) oral representations,
(b) written representations, or
(c) both.
(4) Sub-paragraph (2)(b) shall not apply in respect of a refusal if the refusal was by virtue of sub-paragraph (1).

- 12 Appeal

- 21(1) The applicant for or holder of a permit may appeal 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 (or both), or
 - (c) give a notice under paragraph 16.
- (2) An appeal under this paragraph must be instituted—
- (a) in the magistrates' court for a local justice area in which the premises to which the appeal relates are wholly or partly situated,
 - (b) by notice of appeal given to the designated officer, and
 - (c) within the period of 21 days beginning with the day on which the appellant or holder receives notice of the decision against which the appeal is brought.

Appendices

- a. Copy of application
- b. Plan of premises

Background Papers

Background papers are available for inspection in the Room 18a, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.