

APPLICATION FOR AN AMUSEMENT WITH PRIZES MACHINES PERMIT FOR OVER TWO MACHINES – SECTION 34 THE GAMING ACT 1968

Report By: Head of Environmental Health and Trading Standards

Wards Affected:

Three Elms

Purpose

1. To consider an application for an Amusements With Prizes permit for three gaming machines at the Grandstand, Grandstand Road, Hereford HR4 9NH.

Background Information

2. Responsibility for issuing Section 34 permits to pubs and other alcohol-licensed premises was transferred from the Magistrates Court to licensing authorities in November 2005 as a result of changes made by the Licensing Act 2003. Licensing Authorities will continue to be responsible for authorising gaming machines in pubs under the Gambling Act 2005.
3. The appropriate authority shall not refuse to grant or renew a permit without affording to the applicant or a person acting for him an opportunity of appearing before, and being heard by, the appropriate authority or (where that authority is a local authority) a committee of the local authority.
4. Grounds for refusal to grant or renew permit: -
The grant of a permit shall be at the discretion of the appropriate authority; but The appropriate authority shall not refuse to renew a permit except
 - i) on the grounds that [while the permit has been in force] they or their authorised representatives have been refused reasonable facilities to inspect the premises.
 - ii) Where the permit is expressed to be granted for the purposes of section 34 (5E) of this Act on the grounds that the condition specified in the Act.

Statutory Conditions

- a) In the case of premises where admission is restricted to persons aged 18 or over, that no person under 18 is admitted to the premises; and
- b) In the case where admission is not restricted to persons aged 18 or over-
 - i) that any section 34 machine is located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effectively to prevent access otherwise than by means of and entrance design of for the purpose;
 - ii) that only persons aged 18 or over are admitted to an area of the premises in which any such machine is located;

- iii) that access to an area of the premises in which any such machine is located is supervised;
 - iv) that any area of the premises in which any such machine is located is so arranged as to permit all parts of it to be observed; and
 - v) that at the entrance to and inside, any such area there are prominently displayed notices indicating that access to the area is prohibited to persons aged under 18.
5. Guidance has been sought from the Magistrates' Court in respect of the issue of licences for more than 2 machines.
 6. John Stephenson (Area Legal Manager for South Worcestershire) has advised that the Magistrates would consider the following issues: -
 - The size of the premises
 - How the machines are supervised
 - When the premises is a public house - whether the application for machines changes it from being a public house to a gaming establishment
 - The location of the machines – whether they could be stolen
 - Need for additional machines based on the current usage of the existing machines
 7. On 28th November 2006 the Regulatory Committee resolved not to allow officers to issue permits for more than 2 machines and that any application for more than 2 machines should be referred to the Regulatory Committee.
 8. Grandfather rights will apply to the number of machines issued on the Section 34 permit. If there are more than two machines the permit holder will have to apply for a gaming machine permit under the Gambling Act 2005 when the outgoing permit expires.
 9. The matter was initially heard by the Regulatory Committee on 28th November 2006, and was adjourned for a site visit.
 10. A site visit was subsequently carried out by Councillors Matthews and Fleet, accompanied by the Licensing Officer.
- Permit Application**
11. Green King Brewing & Retail Ltd of Westgate Brewery, Bury St, Edmonds, Suffolk IP33 1QT have applied for an Section 34 Amusements with prizes permit for 3 gaming machines(Appendix 1).
 12. The application has been brought to the Committee for consideration because the applicant has not previously been issued with a permit for 3 gaming machines at this premises; however the premises has previously been issued with a permit for 3 machines.
 13. Appendix 2 provides a GIS map of the area.

Previous Licence

14. The premises has previously, under different management, been issued with a permit for three gaming machines on 14 September 2004 by the Clerk to the Licensing Justices issued by the Magistrates Court. Appendix 2

15. **Summary of Representations**

16. The Police were consulted and had no objections to the application.

17. **RECOMMENDATIONS: THAT**

The committee decides whether:-

a) to grant the permit for three machines

b) to reject the application providing reasons for the decision

d) to come to some other conclusion.

Background Papers

Application form
GIS map of area.