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| MEETING: | REGULATORY SUB-COMMITTEE |
| DATE: | 4 SEPTEMBER 2012 |
| TITLE OF REPORT: | APPLICATION FOR VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT FOR 5 MACHINES IN RESPECT OF 'THE KINGS FEE, 49-53 COMMERCIAL ROAD, HEREFORD HR1 2BJ' – SECTION 283 GAMBLING ACT 2005 |
| PORTFOLIO AREA: | People's Services |

CLASSIFICATION: Open

Wards Affected

Hereford

Purpose

To consider an application for the variation of a Licensed Premises Gaming Machine Permit for 5 machines, in respect of 'The Kings Fee, 49-53 Commercial Road, Hereford HR1 2BJ.'

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 3rd 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

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

Key Points Summary

- Application to increase to 5 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

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| Applicant | J D Wetherspoon Plc Wetherspoon House, Reeds Crescent, Watford, Hertfordshire, WD24 4QL |
| 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 5 machines of Category C or D.
- 5 The premises licence holder has previously given notification of automatic entitlement in respect of 2 machines under Section 282 of the Gambling Act 2005.
- 6 To enable premises to have 5 machines a variation application has been made for an increase in machines from 4 to 5.

- 7 A plan of the proposed locations of the machines is attached within the background papers.
- 8 The applicant has requested an increase in numbers due to the current demand on the current 4 AWP machines.

Key Considerations

- 9 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

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

Legal Implications

- 11 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
- c. JD Weatherspoon – Policy and Procedure Overview.

Background Papers

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