

CARLISLE CITY COUNCILReport to:- **The Chairman and Members of the Regulatory Panel**Date of Meeting:- **4th January 2006**

Agenda Item No:-

	Public	Operational	Delegated Yes
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Accompanying Comments and Statements	Required	Included	
Cumbria Fire Service	No	No	
Cumbria Constabulary	No	No	
Environmental Services	No	No	
Planning Services	No	No	
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Title:-	LICENSING ACT 2003 GAMING PERMITS		
Report of:-	ENVIRONMENTAL PROTECTION SERVICES		
Report reference:-	EP. 02/06		

Summary:-

The Licensing Authority took over full responsibilities under the Licensing Act 2003 on 24th November 2005. An inherited responsibility includes the issuing of gaming permits to licensed premises, a function previously carried out by the Licensing Justices. This report outlines the procedures and asks members to determine the number of Amusements with Prizes Machines (AWP) that officers may authorise to be attached to a permit.

Recommendation:-

That Members authorise officers to grant (but not refuse) an application for up to three gaming machines under section 34 of the Gaming Act 1968

J A Messenger
Licensing Manager

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:- Nil

To the Chairman and Members of the Regulatory Panel on 4th January 2006

Background

- 1.1 The Licensing Act 2003 consolidates a number of existing licensable activities including sale and supply of alcohol, entertainment, cinema, theatre and late night refreshment. With effect from 24th November 2005 they all became the responsibility of local authorities.
- 1.2 An additional inherited function will be the issuing of gaming permits under section 34 of the Gaming Act 1968 to premises licensed to sell alcohol. Previously the magistrates had responsibility for issuing permits to these premises and local authorities for others e.g. takeaways, taxi offices and amusement arcades. As the local authority has now taken over the liquor licensing responsibility, the issue of gaming permits is also transferred.
- 1.3 This is not a "licensing function" under the Licensing Act 2003 and the authority for the grant or refusal of such permits will continue to derive from Schedule 9 to the Gaming Act 1968.
- 1.4 The Constitution of the Council of the City of Carlisle gives the responsibility for Council functions, in respect of gaming, to the Regulatory Panel.
- 1.5 Delegated powers are given to the Head of Environmental Protection Services to grant or renew (but not refuse) any licence, registration, permission or consent for which the Regulatory Panel is responsible. In due course these will transfer to the Director of Legal and Democratic Services.
- 1.6 This report is submitted for members of the Regulatory Panel to consider the number of gaming machines that may be granted by officers.

Guidance issued under section 182 of the Licensing Act 2003

2.1 Para.5 - Gaming Permits

5.121

The Secretary of State recommends that applicants for permits be advised that they may make applications by post and that provided the fee has been paid, they need not attend a hearing unless notified to do so. Applicants to licensing authorities must be holders of premises licences authorising the sale of alcohol for consumption on the premises. It has been the practice for a number of years for companies who rent or lease machines to licence holders to make application for the grant and renewal of permits, and where such applications are made the company should make it clear that the application is made on behalf of, and with the agreement of, the premises licence holder. In the absence of such information, the application should be postponed for the premises licence holder's consent to be notified.

5.122

Licensing authorities are not permitted to attach conditions on the grant of a section 34 permit other than a condition limiting the number of machines authorised under it. The Secretary of State also recommends that licensing authorities should not require applicants to provide a plan of the premises indicating where the machines are to be sited.

5.123

It is recommend that licensing authorities should indicate that its licensing committee and sub-committees will be prepared to grant permits authorising up to two machines without a hearing. If licensing authorities consider it appropriate, they may choose, at their discretion, not to hold hearings in respect of applications concerning larger numbers of such machines.

5.124

There is no requirement under the 1968 Act for the police to be notified of an application.

5.125

Some licensing authorities may be concerned that children are able to play machines authorised under a permit in licensed premises. Parliament has, however, placed no restrictions on the age at which such machines may be played (other than those in amusement 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 lawfully permitted entry to the premises if accompanied by adults. The British Amusement Catering Trade Association (BACTA), the gaming machines trade representative body, have a code of practice in respect of children and gaming machines to which their members are expected to adhere.

5.126

Under paragraph 10A of Schedule 9 to the Gaming Act 1968, all such machines must be located in a bar of the premises. The 2003 Act amends this paragraph in respect of the meaning of "bar" and licensing authorities should note that "bar" in this context means any place which, by virtue of the premises licence, may be used for the supply of alcohol, and which is exclusively or mainly used for the supply and consumption of alcohol.

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2.2 4.12 - Amusements with Prizes

4.12.1

The Authority will be prepared to grant without a hearing, permits authorising up to two machines in premises used for the supply of alcohol, and which is exclusively or mainly used for the supply and consumption of alcohol. The Licensing Sub Committee will determine applications in excess of two Amusements with Prizes machines.

Licensing Justices – Grant of Gaming Permit

- 3.1 The Justices' Clerks' Society 'Good Practice Guide' gives guidance on all matters affecting the Licensing Justices including gaming permits. The advice is identical to that issued under the section 182 guidance at paragraph 2.1 above.
- 3.2 During the consultation on the Statement of Licensing Policy, the advice in the last paragraph was considered which resulted in our policy at 2.2 above.

Current Position

- 4.1 When issuing the new premises licences, licensing staff have enclosed a pro forma requesting that the licence holder provides details of any Gaming Permit in existence in respect of the premises. The replies to date indicate that many of the medium to larger sized premises have been issued a Gaming Permit by the Licensing Justices, authorising up to three AWP machines.
- 4.2 Enquires have been made with the Clerk to the Justices in an attempt to determine what proportion of premises have been granted authority to have three machines. This proved unsuccessful as it would have involved going through each of the individual premises files.
- 4.3 Anecdotal evidence suggests that a high proportion of the larger premises already have authority for three machines. This would indicate that any new, larger premises would also apply for three machines. This would create an unnecessary burden on both on Regulatory Panel and the Committee Section in determining applications under the Gaming Act, when the premises application may well have been dealt with under delegated powers if there were no representations.

Options

- 5.1 Members may wish the situation to remain the same. This would mean that any applications for more than two AWP machines must be considered by a Licensing Sub Committee.
- 5.2 Members may consider that it would be within the spirit of the Licensing Act 2003, to consider the guidance given at para. 2.1 "If licensing authorities consider it appropriate, they may choose, at their discretion, not to hold hearings in respect of applications concerning larger numbers of such machines". Accordingly, Members may wish to exercise their discretion and authorise the departure from the Council's adopted Licensing Policy, in that officers be authorised to use their delegated powers to grant (but not refuse) an application for up to three gaming machines.
- 5.3 Given the potential for additional workload for the Regulatory Panel, it is your officers' advice that the option outlined in para.5.2 is the most appropriate.

Recommendation

6.1 That Members authorise officers to grant (but not refuse) an application for up to three gaming machines under section 34 of the Gaming Act 1968.

Prepared by J A Messenger
Licensing Manager