



GENERAL LICENSING SUB-COMMITTEE
23 February 2024

ITEM 05

Report sponsor: Samantha Dennis, Director of
Public Protection and Streetpride

Report author: Angela Rawson, Service
Manager, Licensing

Application for a Variation of a Gaming Machine Permit at: Toby Carvery, Nottingham Road, Chaddesden, Derby DE21 6LZ

Purpose

- 1.1 An application for a variation of a Gaming Machine Permit at Toby Carvery, Nottingham Road, Chaddesden, Derby DE21 6LZ has been received by Derby City Council's Licensing Team.
- 1.2 Premises wishing to have more than 2 gaming machines are required under the Gambling Act 2005 to hold a permit.
- 1.3 Officers have delegated powers to deal with variations to Gaming Machine Permits for 5 or less machines. However, the General Licensing Committee decided on 9 July 2008, applications for more than 5 machines were to be decided by Committee.

Recommendations

- 2.1 To consider the information in the report, consider the variation application and to determine the application for a variation of the Gaming Permit at: Toby Carvery, Nottingham Road, Chaddesden, Derby DE21 6LZ.

Reason

- 3.1 To ensure that the three licensing objectives are upheld in relation to the application for a variation of the Gaming Machine Permit at Toby Carvery, Nottingham Road, Chaddesden, Derby DE21 6LZ.

Supporting information

- 4.1 An application for a variation to a Gaming Machine Permit was received from Poppleston Solicitors on behalf of the premises licence holder, Mitchells & Butlers Leisure Retail Limited on 30 January 2024. A copy is attached at Appendix 1.
- 4.2 The variation relates to:
The addition of 1 category C gaming machine.

- 4.3 The current permit is:
4 category C and 1 category D gaming machines. A copy of the current permit is attached at Appendix 2.
- 4.4 A table of gaming machine categories is attached at Appendix 3.
- 4.5 The Premises Licence Holder is: Mitchells & Butlers Leisure Retail Limited, 27 Fleet Street, Birmingham B3 1JP.
- 4.6 A gaming machine site plan of the premises, electronic leisure gaming machines age verification testing policy and gaming machine age verification testing is attached at Appendix 4.
- 4.7 The copy of the premises licence is attached at Appendix 5.
- 4.8 The Committee is obliged to determine this application with a view to promoting the licensing objectives which are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - Ensuring that gambling is conducted in a fair and open way.
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 4.9 In making its decision, the Committee is obliged to have regard to the relevant guidance issued by the Gambling Commission under Section 25 of the Gambling Act 2005 and the Council's own Statement of Principles.
- 4.10 The Council has a duty to act in a manner which is compatible with the Human Rights Act 1998.
- 4.11 A Licence is regarded as property for the purposes of the Human Rights Act 1998. Article 1 of the First Protocol states that:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

- 4.12 The Committee must also take into account the effect on local residents. Article 8 states:
- Everyone has the right to respect for his private and family life, his home and his correspondence.
 - There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4.13 Three stage test to be applied:

- Is the interference in accordance with the law?
- Is the interference necessary in a democratic society in pursuit of one of the legitimate aims set out above?

Is the decision proportionate i.e. Striking a fair balance between the demands of the general interests of the community and the requirement to protect the individual's fundamental rights?

Other options considered

5.1 Not other options available

Financial and value for money issues

6.1 Not applicable

Legal implications

7.1 Not applicable

Other significant implications

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Not Applicable to Licensing Sub Committees	
Finance	Not Applicable to Licensing Sub Committees	
Service Director(s)	Not Applicable to Licensing Sub Committees	
Report sponsor	Not Applicable to Licensing Sub Committees	
Other(s)	Not Applicable to Licensing Sub Committees	

For more information contact: Background papers: List of appendices:	Name: Angela Rawson Telephone: 01332 647908 e-mail: angela.rawson@derby.gov.uk None Appendix 1 – Application for Variation of Gaming Machine Permit Appendix 2 – Current Gaming Machine Permit Appendix 3 – Gaming Machine Categories Appendix 4 – A gaming machine site plan of the premises, electronic leisure gaming machines age verification testing policy and gaming machine age verification testing Appendix 5 - Premises Licence Appendix 6 – MAB Gaming policy Appendix 7 – Plan of Toby Carvery Appendix 8 – Underage gaming slides
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