

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee B
Report of:	Interim Assistant Director of Regulation & Enforcement
Date of Meeting:	Tuesday 7th July 2020
Subject:	Gambling Act 2005 Variation of a Licensed Premises Gaming Machine Permit
Premises	The Tennis Court, Walsall Road, Perry Barr, Birmingham, B42 1TY
Ward affected:	Perry Barr
Contact Officer:	Shaid Yasser, Senior Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:

Officers have delegated authority to grant Permits in respect of up to 4 Licensed Premises Gaming Machines, Category C & D in an Alcohol Licensed Premises.

This application seeks to vary the existing permission to operate a total of 4 Category C Gaming Machines.

2. Recommendation:

The Sub-Committee is requested to consider the application to operate a total of 5 Category C Gaming Machines on an Alcohol Licensed premises.

3. Brief Summary of Report:

An application for the variation of a Licensed Premises Gaming Machine Permit was received on 14th February 2020.

4. Compliance Issues:

4.1 Consistency with relevant Council Policies, Plans or Strategies:

The report complies with the City Council's Statement of Licensing Principles and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

<p>5. Relevant background/chronology of key events:</p> <p>Poppleston Allen Solicitors, on behalf of Stonegate Pub Company Limited, submitted an application for the variation of a Licensed Premises Gaming Machine Permit on 14th February 2020 for The Tennis Court, Walsall Road, Perry Barr, Birmingham, B42 1TY.</p> <p>The application, including supporting documents, is attached at Appendix 1.</p> <p>Birmingham City Council Licensing Enforcement visited the premises on 20th February 2020 and confirmed that they have no objections to the application. Their report is attached at Appendix 2.</p> <p>The premises already have the benefit of a current Gaming Machine Permit issued under the Gambling Act 2005, which permits a total of 4 Category C machines. See Appendix 3.</p> <p>Gaming Machine Categories by maximum stake and maximum prizes available, see attached Appendix 4.</p> <p>Site Location Plans at Appendix 5.</p> <p>Where an application for a licensed gaming machine permit is made, the licensing authority 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.</p> <p>The licensing objectives are:</p> <ol style="list-style-type: none"> 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.
<p>6. List of background documents:</p> <p>Application Form and supporting documents, Appendix 1 Birmingham City Council Licensing Enforcement report, Appendix 2 Current Gaming Machine Permit, Appendix 3 Gaming Machine Categories, Appendix 4 Site Location Plans, Appendix 5</p>
<p>7. Options available</p> <ol style="list-style-type: none"> Grant the application Refuse the application Grant the application in respect of; <ol style="list-style-type: none"> A smaller number of machines than is specified in the application A different category of machines from that specified in the application, or both <p>A licensing authority may not refuse an application or grant it in respect of a different category or number of gaming machines without first notifying the applicant and giving the applicant an opportunity to make representations (either in written or oral form, or both).</p>

Reg No - 11450

Refs - 13/3/20

Birmingham City Council

NOTIFICATION OF 2 OR LESS GAMING MACHINES OR GAMING MACHINE PERMIT APPLICATIONS (i.e for greater than 2 machines) for: CONVERSION / NEW / VARIATION / TRANSFER(FOR USE BY PREMISES LICENCES TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)*Please refer to guidance notices at the back of this form before completing*

SECTION A – What do you want to do	
1. Please indicate what you would like do	
a) Notify licensing authority that you intend to provide up to a maximum total of 2 gaming machines category C and / or D (if you choose this option please complete sections D and E)	<input type="checkbox"/>
b) Apply to convert an existing Section 34 permit issued under the Gaming Act 1968, into a licensed premises gaming machine permit (ie for more than 2 gaming machines) (if you choose this option then please complete sections B, D and E)	<input type="checkbox"/>
c) Apply for a new licensed premises gaming machine permit (if you choose this option then please complete sections B, D and E)	<input type="checkbox"/>
d) Apply to vary an existing licensed premises gaming machine permit (if you choose this option then please complete sections B, D and E)	<input checked="" type="checkbox"/>
e) Apply to transfer an existing licensed premises gaming machine permit (if you choose this option then please complete sections C, D and E)	<input type="checkbox"/>

SECTION B – Application for grant (includes <u>conversion</u> , <u>new</u> and <u>variation</u> applications)		
2. How many gaming machines are you currently authorised to provide and if this is a new or variation application, how many do you wish to provided? (please complete the boxes in the table)		
Category machine	Number currently authorised to provide	Number wish to provide (new or variation)
C	4	5
D		
TOTAL	4	5
3. If you are currently authorised to provide more than 2 machines, please provide your existing Section 34 Gaming Act 1968 permit, or provide reasons stating why it cannot be provided. Existing permit provided *		<input checked="" type="checkbox"/>
(reasons why existing permit cannot be provided) N/A		

* Please keep a copy of your existing permit on the premises to which it relates



Birmingham City Council
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(FOR USE BY PREMISES LICENCES TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)
Please refer to guidance notices at the back of this form before completing

SECTION C – Application for permit <u>transfer</u> (ie, where a transfer has been requested for the Licensing Act 2003 premises licence)	
4. Name of person requesting the transfer	
5. Confirmation that an application to transfer the relevant Licensing Act 2003 Premises Licence has been:	Requested <input type="checkbox"/> Granted <input type="checkbox"/>
6. Please provide your existing permit, or provide reasons stating why it cannot be provided	Existing Permit provided <input type="checkbox"/>
Reasons why existing permit cannot be provided	

SECTION D – General Information

7. Name of Premises: Tennis Court
8. Address of Premises: Walsall Road, Perry Barr, Birmingham, B42 1TY
9. Telephone number of Premises: 0121 356 8124
10. Name of existing Premises Licence holder: Stonegate Pub Company Limited
11. Address of Premises Licence holder (if different from 8 above): Porter Tun House, 500 Capability Green, Luton, LU1 3LS
12. Telephone number (daytime) of Premises Licence holder: 01582 957163
13. E-mail address of Premises Licence holder (where available):
14. Name, address, telephone and e-mail of agent (eg Solicitor) if submitted on behalf of the applicant:
Michelle Peach, Poppleston Allen, 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS
Tel : 0115 953 8509 Email : m.peach@popall.co.uk
15. Licensing Act 2003 Premises Licence Reference (ie number): 20/3

Birmingham City Council
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SECTION E – Fee and Signature(s)

I enclose a sum of (£100.00) (cheques should be made payable to)

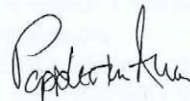


I understand that I must comply with the Gaming Machine Code of Practice for Alcohol Licensed Premise Permits and Permissions issued by the Gambling Commission. (see guidance note 8)

Please note: It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading

Dated: 13 February 2020

Signed (by or on behalf of Licensing Act 2003 Premises Licence holder) ..



Print Name: Poppleston Allen – Solicitors for & on behalf of the applicant

Official Use Only

Date of receipt

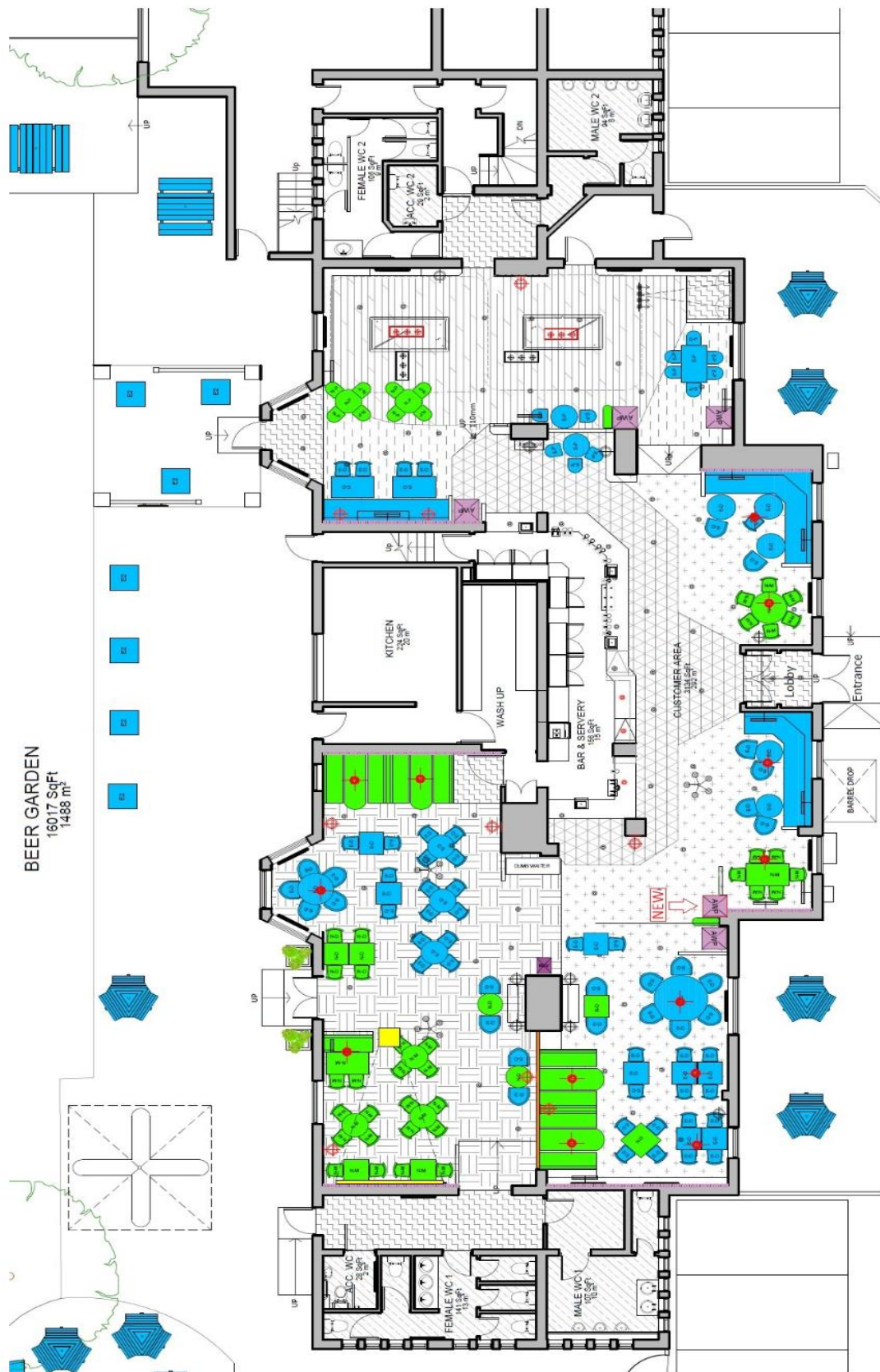
Signature and name of staff who received:

Date of receipt of fee

Signature and name of staff who received fee:

Application accepted / returned (please delete as appropriate)

Date of premises licence (Licensing Act 2003) transfer (if applicable)



ACCESS TO GAMBLING BY CHILDREN AND YOUNG PERSONS

Statement

Stonegate Pub Company Limited recognises its responsibility and obligations under the Gambling Act 2005 and operates a Children and Young Person Policy in respect of its premises. This Access to Gambling policy specifically addresses the operation of gaming machines in our licensed premises.

Policy and Procedures

Stonegate Pub Company Limited acknowledges its obligation to ensure that its team members prevent children and young persons from accessing age restricted gambling activities including access to category C gaming machines.

Gaming machines are supervised by staff members and CCTV , where available, throughout operational hours.

We operate a Policy of Challenge 21/25 in order to prevent under 18s from accessing age restricted activities.

1. Under-18s are only allowed access to or to play on Category D gaming machines.
2. Under-18s are not allowed to participate in any 'exempt' gaming that may be operated at our premises, such as bingo.
3. In line with our Children and Young Person Policy, where individuals cannot produce ID upon request, they should be politely advised that they will not be permitted to participate in age restricted gaming activities.
4. Should any individual repeatedly attempt to access age restricted gambling activities, the person and or their parent/guardian should be advised that the age restriction is a legal requirement and if broken the police will be notified.
5. In cases where an adult member attempts to facilitate, encourage or endorse an underage individual from accessing age restricted gaming and machines, the adult will receive an oral warning from the Duty Manager and if this re-occurs then the individual will be barred from the premises and the matter will be reported to the Gambling Commission and where appropriate the Police.

6. Should team members become aware that an underage person has used a category C gaming machine despite the above controls being in place, the Duty Manager will return any stake or fee to that person as soon as is reasonably practical. At the same time, any outstanding prizes or winnings for that person will not be paid.
 - a. Any disagreements as to the amount gambled and due for return to the player etc. will be fully identified on the Gambling Incident Report as will a detailed description of what has taken place.
 - b. In the event of the disputed stakes being related to the playing of a gaming machine by the underage player, wherever possible the electronic record of machine play will be audited as to amounts involved in conjunction with an examination of any available and relevant CCTV footage.
7. In all cases a record of such incidents should be maintained by completion of the Company's Gambling Incident Report.

Team Members are trained as part of their induction and receive refresher training in the understanding of, and the strict adherence to this policy.

GAMING MACHINES IN ALCOHOL LICENSED PREMISES

Can I operate gaming machines?

Premises **with an 'on' licence** issued under either the Licensing Act 2003 or the Licensing (Scotland) Act 2005 are automatically entitled to make two gaming machines, of either category C or D, available for use, provided that the relevant Licensing Authority or Licensing Board (premises in Scotland) is notified.

When can I operate my machines?

Our premises can provide gaming machines if they have a bar at which alcohol is served, as long as any sale of alcohol is not limited to consumption only with food, such as through a restaurant condition.

Gaming Machines can be played at any time when alcohol may be sold to customers in reliance on the premises licence (check the permitted hours on your premises licence).

Should you be operating at times not permitted by your premises licence, such as when operating under a Temporary Event Notice for extended hours, **all gaming machines must be switched off** during the extended period as you are no longer operating the hours permitted by your premises licence.

How many machines can I have?

Category	Total Number of machines	Authorisation
C or D	2	Notification
C or D	Number Specified on permit (eg. 3 Cat C and 2 Cat D)	LPGMP (Licensed Premises Gaming Machine Permit)

A Licensed Premises Gaming Machine Permit (LPGMP) allows a specified number of category C and/or D gaming machines within the licensed area. In principle any number of machines can be included on this type of permit. LPGMP's are linked to the premises' alcohol licence and an annual maintenance fee of £50 is payable to the Licensing Authority.

Types of Gaming Machine

Gaming machines are grouped into categories based upon the maximum stake and prize limits permitted.

Category D machines are further broken down based on the type of play and prize available. Many of the styles of machine are commonly seen in family friendly arcades, such as crane grab machines and coin pusher/penny fall machines:

Age Restriction	Category		Maximum Stake	Maximum Prize
18+	Category C		£1	£100
No restriction	Category D	Money prize	10p	£5
		Non money prize (other than crane grab)	30p	£8
		Mixed money and non-money prize (other than Coin pushers or penny fall)	10p	£8 prize value, of which £5 can be cash
		Crane grab machines (non-money prizes)	£1	£50
		Coin pushers or penny fall (mixed money and non-money)	20p	£20 prize value, of which £10 can be cash

Other types of machine

Skill machines, such as quiz games, award prizes wholly based on the skill or knowledge of the player and are therefore NOT classed as gaming machines and can be operated without a licence.

Location of Gaming Machines

It is the responsibility of the Designated Premises Supervisor to ensure that all gaming machines are positioned so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means such as monitored CCTV.

This ensures that under-age individuals do not gain access to age restricted machines and also enables the monitoring of players' behaviour.

Machines operated under a notification or LPGMP can be situated anywhere within the area covered by the premises licence, providing that they are appropriately supervised.

If premises provide a cash machine/ATM on site, all gaming machines must be located away from these machines so that anyone wishing to obtain cash **must** stop gambling in order to do so.

A common approach is for premises to position age restricted machines (category C) near a bar or other permanently manned position.

Gaming Machines - Display of information

All gaming machines must display the information listed below, either by way of labelling or contained with the help screens of digital machines:

- Machine Category;
- Problem gambling resources such as the Gamcare helpline
- Age restriction (category C and above)
- % of return (prize pay-out compared to stakes placed)
- ID plate –serial Number (all machines manufactured post 2007)
- Manufacturer/supplier details
- Stake and Prize limits

Are There Any Conditions or Rules to Follow?

Permit holders, should have regard to the Gambling Commission's "**Code of Practice for Gaming Machines in Clubs and Premises with an Alcohol Licence**". Compliance with the Code is the responsibility of the Designated Premises Supervisor or Premises Manager (Scotland).

Legal requirements & conditions of your permit

1. Category C machines must only be used by players over the age of 18.
2. The Code of Practice attaches the following **conditions** of a permit, and failure to comply could result in cancellation of the permit:

- a. The gaming machines must be situated on the premises so that their use can be supervised, either by staff whose duties include such supervision or by other means.
- b. Permit holders must have in place arrangements for such supervision.
- c. Gaming machines situated on the premises shall be located in a place that requires a customer who wishes to use any ATM made available on the premises to cease gambling at the gaming machines in order to do so.

Best Practice

The Code of Practice also provides best practice guidance and the Gambling Commission considers that the following should be implemented by permit holders:

1. Age Verification procedures– Any individual who appears to be underage must be asked to provide an acceptable form of photographic identification that states the individual's date of birth is valid and legible and has no signs of tampering or reproduction. Stonegate Pub Company's Children and Young Person Policy identifies the following acceptable documentation: Photo card driving licence, passport or Accredited PASS Scheme proof of age card containing the PASS hologram.
2. Procedures for dealing with cases where underage individuals repeatedly attempt to gamble on age restricted machines (category C). This should include the provision of oral warnings, barring individuals and their parent or other responsible adult, reporting the offence to the Gambling Commission and the police and also providing information regarding problem gambling, where relevant. Further details are contained in the Company's Access to Gambling by Children and Young Persons policy.
3. Procedures for dealing with customer complaints and disputes. The Company has implemented a gaming machine complaints and disputes policy which must be referred to. Customers must (i) be informed of the name and status of the individual who can be contacted about their complaint; (ii) be provided with a copy of the complaints procedure on request or when making a complaint.

In the event that an underage individual has placed stakes on an age limited gaming machine, stakes should be returned where possible and any winnings withheld.

What happens if a pub breaks the rules?

A Gambling Commission enforcement officer, police constable or local authority officer may visit the premises to check whether any gaming, including the operation of machines, is being provided and monitored in line with the legal requirements mentioned above. Any failure to ensure that machines are correctly operated could result in enforcement action including:

- Removal of your gaming permissions either by withdrawing the automatic entitlement under a notification for two machines or by cancelling or varying a Licensed Premises Gaming Machine Permit;
- Criminal prosecution under the Gambling Act 2005;
- Identification of a failure to promote the licensing objectives under the Licensing Act 2003, in particular the prevention of crime and disorder and/or protection of children from harm, which could result in a review of your alcohol licence by the Licensing Authority.

Poppleston Allen - <http://www.popall.co.uk/>

Our appointed licensing solicitors can provide extensive advice in respect of any gaming operated at our premises and can address any queries regarding our obligations.

Site Address:

Site Reference:

GAMBLING ACT 2005

SUMMARY OF STAFF TRAINING (Gaming Machines)

Management and Staff have declared that they have read and understood the following and are fully aware of Company policy and procedures relating to them:

1.	Gaming Machines in Alcohol Licensed Premises
2.	Access to Gambling by Children and Young Persons

Name	Position in Company	Joining Date	Training Date	Signature	Leave Date	1	2	3	

Birmingham City Council Licensing Service

Licensing Enforcement Team report as a responsible authority in respect of an
application made under the Gambling Act 2005

Introduction

Principles to be applied:

In exercising their functions a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—

- (a) in accordance with any relevant code of practice under section 24,
- (b) in accordance with any relevant guidance issued by the Commission under section 25,
- (c) reasonably consistent with the licensing objectives:
 - (i) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - (ii) ensuring that gambling is conducted in a fair and open way, and
 - (iii) protecting children and other vulnerable persons from being harmed or exploited by gambling;

and

- (d) in accordance with the Birmingham City Council - Statement of Principles .

Background Information

Poppleston Allen has submitted an application on behalf of Stonegate Pub Company Ltd, Porter Tun House, 500 Capability Green, Luton, LU1 3LS to vary the Licensed Premises Gaming Machine Permit by increasing the number of gaming machines currently permitted at their premises trading as:-

Tennis Court, Walsall Road, Perry Barr, Birmingham, B42 1TY

The applicant, Stonegate Pub Company Ltd hold a Premises Licence number 20, allowing automatic entitlement of 2 or less gaming machines to be made available at the premises.

Their Gaming Machine Permit No 422, allows 4 gaming machines, Category C, which was granted in 2010. Stonegate Pub Company Ltd now wish to increase the number of gaming machines already permitted as follows:-

Number of category C gaming machines - 5
Number of category D gaming machines - 0

Gambling Act 2005

Section 153 of the Gambling Act 2005

Requires licensing authorities to take into account when exercising their functions, any relevant code of practice issued by the Commission.

The Gambling Commission guidance to the Gambling Act 2005 states at :-
Paragraph 26.8

Licensing authorities may issue licensed premises gaming machine permits for any number of category C or D machines in licensed premises. Where a permit authorises the making available of a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to, any automatic entitlement to two machines under s.282 of the Act.

Paragraph 26.9

Holders of licensed premises gaming machine permits are required to comply with a code of practice issued by the Commission on the location and operation of machines, Code of practice for gaming machines in clubs and premises with an alcohol licence. (Copy of the current code of practice attached to the report at Appendix 1)

Paragraph 26.12

In determining an application, the licensing authority must have regard to the licensing objectives and to this Guidance. They may also take account of any other matters that are considered relevant to the application. The application does not require notification to the Commission or police before determination, however, licensing authorities are able to specify this as a requirement should they see fit.

Paragraph 26.13

The licensing authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the licensing authority must issue the permit as soon as possible after that. Where they refuse the application they must notify the applicant as soon as possible, setting out the reasons for refusal. The licensing authority must not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.

Paragraph 26.14

The permit must specify the person or organisation to which it is issued, the number and category of gaming machines for which the permit has effect, the address of the premises and the date on which it takes effect.

Paragraph 26.17

There are no renewal provisions for this class of permit because they are indefinite and continue in force for so long as the premises continues to have an alcohol licence and the holder of the permit continues to hold that licence. The permit can lapse if the holder surrenders it to the licensing authority.

Paragraph 26.18

The holder may apply to vary the permit by changing the number and/or category of machines authorised by it.

Birmingham City Council Statement of Principles

A person who holds the “on-premises” alcohol licence may apply to the Licensing Authority for a permit specifying any number of category C or D machines but when considering the application the Licensing Authority will have regard to the licensing objectives, and may also take into account any matters that are considered relevant to the application. These may include:

- ☐ the appropriate siting of gaming machines in areas where children are not normally permitted;
- ☐ the size of the premises;
- ☐ the supervision of gaming machines at all times when the premises is open;
- ☐ notices by each gaming machine specifying no person under 18 years old are permitted to use the gaming machine;
- ☐ age verification checks;
- ☐ ensuring members of staff are appropriately trained;
- ☐ display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

Visit to The Tennis Court, Walsall Road, Perry Barr, Birmingham, B42 1TY – 20th February 2020

During the visit to the premises on 20th February 2020 it could be seen that the pub is situated on Walsall Road, Birmingham.

Children are allowed on the premises but they remain the responsibility of accompanying adults at all times.

The applicant is currently making a total of 4 category C machines available on their premises and there is ample space on the premises to allow a further gaming machine to be sited.

The Designated Premises Supervisor has advised that all staff have been trained in their responsibilities regarding the Gambling Act. They will always challenge anyone who appears to look under the age of 18 years and request ID. Staff are trained to monitor the sites of the current gaming machines.

As a Responsible Authority it is important to bear in mind that gambling must remain ancillary to the main purpose of the premises and the exemptions and permits are reliant on the premises holding a valid alcohol licence.

Recommendations

No matters for concerns were identified during the visit to the premises on the 20th February 2020 in relation to the existing 4 gaming machines being made available for use. The Licensing Enforcement Team would therefore have no concerns if the Licensing Sub Committee is minded to grant the application submitted.

The Licensing Enforcement Team considers the number and category of gaming machines applied for will continue to satisfy the requirement that gambling at the premises remains ancillary to the main purpose being the sale of alcohol and is not an excessive number given the size of the premises.

The Codes of Practice (Appendix 1) issued by the Gambling Commission further ensures the appropriate siting, supervision and operation of gaming machines at the premises.

The applicant has measures in operation at the premises which promote the licensing objectives and in particular promoting the protection of children and other vulnerable persons from being harmed or exploited by gambling.

As a Responsible Authority it is important to bear in mind that gambling must remain ancillary to the main purpose of the premises and the exemptions and permits are reliant on the premises holding a valid alcohol licence.

BIRMINGHAM CITY COUNCIL



This form is prescribed by regulation 4 of the Gambling Act 2005 (Licensed Premises Gaming Machine Permits) (England and Wales) Regulations 2007

Licensed Premises Gaming Machine Permit

No: 422 / 2

This licensed premises gaming machine permit authorises:

Stonegate Pub Company Limited

to make gaming machines, of the category and number specified below, available for use on the following premises

The Tennis Court, Walsall Road, Perry Barr, Birmingham, B42 1TY

Number of Category C Gaming Machines authorised by this permit:	4
Number of Category D Gaming Machines authorised by this permit:	0

Date on which this permit takes effect or is renewed:
19/01/2011

This permit is issued by:
Birmingham City Council
Licensing Section, Crystal Court, Aston Cross Business Village,
50 Rocky Lane, Aston, Birmingham, B6 5RQ

Gaming Machines (Fruit Machine, Slot Machine) Categories**Summary of gaming machine categories and entitlements**

Category of machine	Maximum stake (from April 2019)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£2	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of max £20,000 linked progressive jackpot on premises basis only

