BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C	
Report of:	Acting Director of Regulation &	
	Enforcement	
Date of Meeting:	Wednesday 7 th December 2016	
Subject:	Gambling Act 2005	
	Variation of a Licensed Premises Gaming	
	Machine Permit	
Premises	Bottle of Sack, Birmingham Road, Sutton Coldfield, B72 1DD	
Ward affected:	Sutton Trinity	
Contact Officer	David Kennedy, Principal Licensing Officer,	
	0121 303 9896, licensing@birmingham.gov.uk	

1. Purpose of report:

Officers have delegated authority to Grant Permits in respect of 4 Licensed Premises Gaming Machines, Category C & D in an Alcohol Licensed Premises. This application seeks to have permission to operate 5 Category C Gaming Machines.

2. Recommendation:

The Sub Committee is requested to consider an application to operate a total of 5 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 19th September 2016.

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.

5. Relevant background/chronology of key events:

JD Wetherspoons PLC submitted an application for the variation of a Licensed Premises Gaming Machine Permit on 19th September 2016 for the Bottle of Sack, Birmingham Road, Sutton Coldfield, B72 1DD.

The application, including supplementary information in support of the application, is attached at Appendix 1.

Birmingham City Council Licensing Enforcement visited the premises on 29th September 2016, and confirmed that they have no objections to application. Their report is attached at Appendix 2.

A copy of the current Gaming Machine Permit issued under the Gambling Act 2005, which permits 4 Category C machines, is attached at Appendix 3.

Gaming Machine Categories by maximum stake and maximum prizes available, see attached Appendix 4.

Site Location Plans at Appendix 5.

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.

The licensing objectives 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
- c. Protecting Children and other vulnerable persons from being harmed or exploited by gambling.

6. List of background documents:

Application Form, 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

7. Options available

- a) Grant the application
- b) Refuse the application
- c) Grant the application in respect of;
- (i) A smaller number of machines than is specified in the application
- (ii) A different category of machines from that specified in the application, or (iii)both

APPLICATION FOR THE NOTIFICATION / GRANT / VARIATION / TRANSFER OF A LICENSED PREMISES GAMING MACHINE PERMIT (FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)

Please refer to guidance notes at the back of this form before completing

Birmingham City Council Licensing Section Crystal Court Aston Cross Business Village 50 Rocky Road Aston. Birmingham B6 5RQ	
Section A – Applicant Details	
Name of Applicant	
JD Wetherspoon Pic	
2. Date of Birth or Company registration No. as app	dicable
1709784	
3. Address / registered office of applicant	
Wetherspoon House, Reeds Crescent, Watford,	Hertfordshire WD24 4QL
4. Telephone number (daytime) of applicant	
6. Name, address, telephone and e-mail of agent (e	and the second s
1. Name of premises	
Bottle of Sack	19 SEP 1111
	19 SEP - 32 19 SEP - 19 / 100 (412
2. Address of premises	res No V
2 Birmingham Road, Sutton Coldfield, B72 1DD	MAIN AND AND AND AND AND AND AND AND AND AN
3. Telephone number of premises	
4. E-mail address of premises (where available)?	
5. Licensing Act 2003 Premises Licence Number 2431/3	

SECTION C - What do you want to do?						
Please indicate what you would like to do:						
a) Notify licategory C	a) Notify licensing authority that you intend to provide up to a maximum total of 2 gaming machines of category C and / or D. If you choose this option then please complete section F.					
b) Apply to the licensing authority for more than 2 gaming machines. If you choose this option then please complete sections D and F.						
c) Apply to	vary an existing perm	nit. If you choose this option th	en please complete sections l	D and F.		
d) Request that the licensing authority transfers an existing permit to yourself. If you choose this option then please complete sections E and F.						
SECTION	D - Grant and var	iation requests				
How many gaming machines are you currently authorised to provide and how many do you wish to provide? Please complete the boxes in the table.						
	Category machine	Number currently authorised to provide	Number wish to provide			
	С	4	5			
	D		T			
	Total		5			
2. If you are authorised to provide more than 2 machines, please provide your existing permit, or provide reasons stating why it cannot be provided. Existing permit provided						
Reasons w	hy existing permit car	not be provided		•••••		
Section E – Transfer request						
1. Name of	person requesting the	e transfer				

2

Requested

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2. Please confirm that an application to transfer the relevant Premises Licence under the Licensing Act 2003 has been:

JD Wetherspoon plc

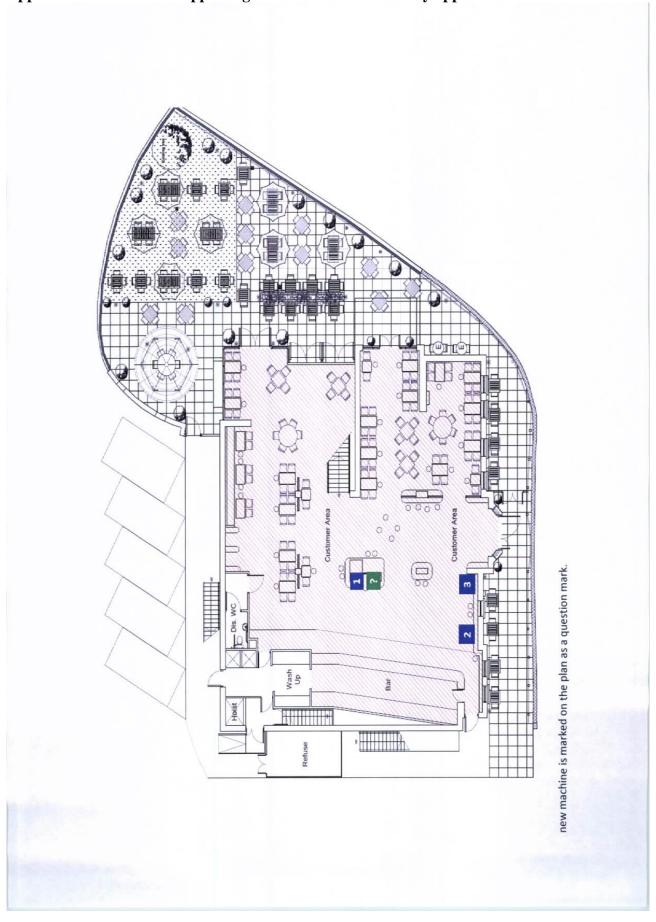
	Granted	
3. Please provide your existing permit, or provide reasons stating why it cannot be	provided.	
Existing	permit provided	
Reasons why existing permit cannot be provided		
Section F – Fee and Signature(s)		
1. I enclose In all cases		
the relevant fee		□
 i confirm that the premises where the machines are proposed to be located at alcohol for consumption on the premises and that there is a bar to customers on the premises (without the requirement that alcohol food). 	for serving alcoh	roi to
 I am aware of and will abide by the Gaming Machine Co Alcohol Licensed Premise Permits and Permissions issue Commission. 	ode of Practice od by the Gami	e for bling
·		
All staff will be trained as to the limits of any stakes and prizes and		s of
the Act, Guidance and any appropriate codes of practice or conduc	:t	_/
Please note: It is an offence under section 342 of the Gambling Act 2005	5 if a person, wi	thout
reasonable excuse, gives to a licensing authority for a purpose confined information which is false or misleading.	nected with tha	t Act
Dated 16 all6		
Name (please print). J∈NN(€ OD€CC		
ou wish to have a maximum of 2 gaming machines then the fee payable is £50. If y	you wish to have n	nore

* If you wish to have a maximum of 2 gaming machines then the fee payable is £50. If you wish to have than 2 gaming machines then the fee payable is £100 by an existing operator or £150 in all other cases.

To Vary the Permit £100 To Transfer the Permit £25

3

Appendix 1 continued – Supporting Information submitted by applicant



Licensed Premises Gaming Machines JD Wetherspoon Policy and Procedure Overview

We understand when considering this application that the Licensing Authority will consider the 3 objectives of the Gambling Act 2005 and therefore have set out below the policies and procedures JD Wetherspoon undertakes in its pubs to promote this objectives. In addition the Gambling Commission's "Gaming Machine Permits Code of Practice is complied with.

Protecting children and other vulnerable people from being harmed or exploited by gambling;

To ensure that no persons under the age of 18 are permitted to play on our gaming machines, we abide by a Challenge 21 policy in all of our premises. Under this policy, all of our employees are trained to ask any customer who appears to be under the age of 21 years to provide valid proof of age that they are over the age of 18. When in use, Door Supervisors are also fully briefed on our policy and what is expected of them in the implementation of the same.

- J D Wetherspoon has adopted the industry standards and the recommendations of the Gambling Commission and recognises only the following forms of identification as valid forms of proof of age:
 - National passport
 - Photographic Drivers' Licence
 - United Kingdom 'PASS' accredited age identification card with photograph.

In certain circumstances, other forms of ID are accepted at the discretion of the manager on duty such as international ID cards or military ID cards.

We apply this policy to all age restricted activities on our premises.

All employees receive induction training on our Challenge 21 policy when they commence employment with the Company and then receive regular refresher training. All employees complete video training, quizzes and sign a letter to confirm that they have had this training and understand their responsibilities. All training records are retained on personnel files and these files are regularly reviewed by the pub management team and members of our Retail Audit department to ensure that the training system is being satisfactorily completed.

Staff compliance with our Challenge 21 policy is tested by a number of means:

- Management review of a 'refusals log' which records when and how often bar staff are recording when a sale has been refused.
- Independent mystery visitors who are aged 18 and 19 years are sent into our pubs to test compliance with our Challenge 21 policy.

Our Challenge 21 policy is also actively promoted within the premises using self-adhesive signs at every entrance, staff wearing 'It's my job to ask' badges and posters throughout the premises.

All front of house staff are aware of their responsibility for preventing underage gambling.

All machines are situated in a place where their use can be supervised.

2. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime; and

The power to all gaming machines is turned off after the pub has closed to ensure potential thieves are not attracted by the lights in the pub.

JD Wetherspoon pubs also have two types of alarm systems, the panic alarm and intruder alarm, which cover the majority of the pub including the customer area where gaming machines are located.

The monitored intruder alarm covers the main entry points when the pub is closed. It is mainly activated by a forced entry into the pub triggering the door contacts or motion detectors. This pub is internally described as having a 'level 1 response' to its alarm system, meaning police response. This is an automated system which feeds through to Secom central station, our alarm consultants, who notify the police and the registered key holders of the pub.

JD Wetherspoon prides itself on provide safe, well run premises for all people to enjoy themselves in. Over our estate of 780 pubs we spend considerable time and resources ensuring they are all well equipped with adequate and appropriate CCTV coverage.

Ensuring that gambling is conducted in a fair and open way.

All of our AWP machines are located in well supervised areas fully open to the public at large and are provided by reputable companies.

JD Wetherspoon PLC September 2010

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

JD Wetherspoon PLC has submitted an application to increase the number of gaming machines currently permitted at their premises trading as:-

Bottle of Sack, 2 Birmingham Road, Sutton Coldfield, West Midlands, B72 1QQ

The applicant J D Wetherspoons PLC currently holds a Licensed Premises Gaming Machine Permit number 474/1 allowing up to 4 gaming machines to be made available at the premises.

This permit specifies the number and category of the gaming machines authorised as follows:-

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Number of category C gaming machines - 4
Number of category D gaming machines - 0
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JD Wetherspoons PLC is now seeking authorisation to increase the number of gaming machines permitted as follows:-

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Number of category C gaming machines - 5
Number of category D gaming machines - 0
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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 2)

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:

نــ	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 Bottle of Sack - 29th September 2016

During the visit to the premises on 29th September 2016 it could be seen that the pub caters for adults and families, offering food throughout the day and into the early evening. I was advised by the Duty Manager Emma Proctor that evenings are geared towards all adults.

The applicant is currently making a total of 4 category C machines available on their premises. Their current Gaming Machine Permit allows 4 category C machines.

The current gaming machines are sited throughout the premises (see photos appendix 1-3). 3 machines are currently downstairs which are visible from the bar area. 1 machine is upstairs which is supervised at all times through their CCTV and regular walkabout staff who have been trained in the Licensing objectives.

ID checks are carried out if a member of staff has concerns about the possible age of persons playing any of the category C gaming machines.

I was informed by Ms Proctor that there were 2 possible sites being considered for a further machine. These being either downstairs where there is currently a fridge (Photo appendix 4). This area is covered by CCTV and walkabout staff. The other possible siting would be upstairs where condiments are currently sited (see Photo Appendix 5), the area also covered by CCTV and walkabout staff.

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

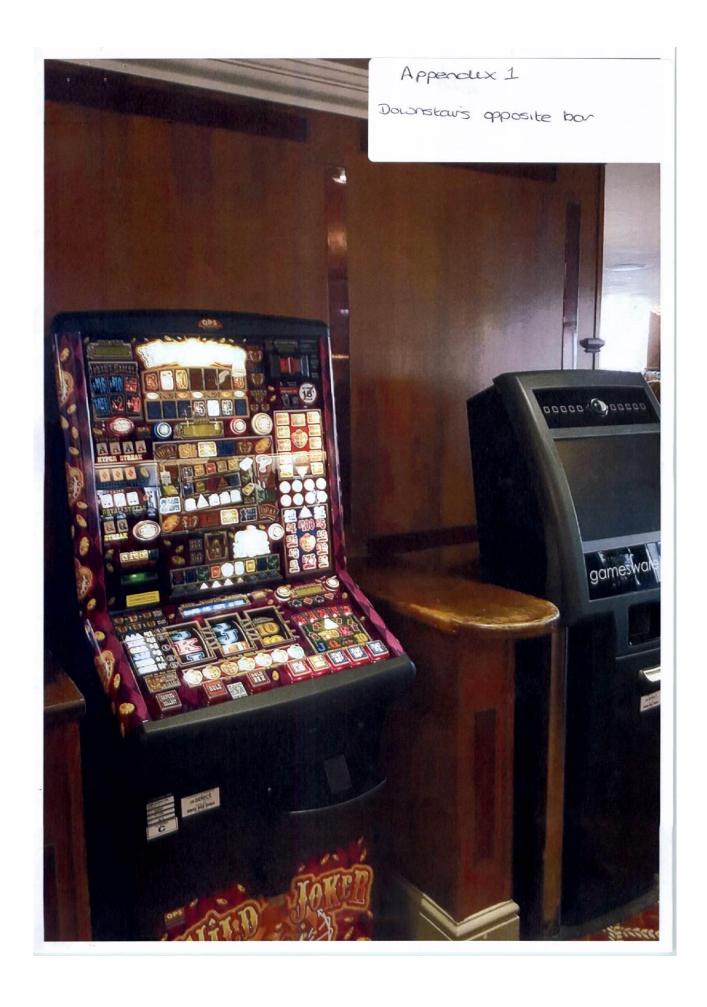
No matters for concerns were identified during the visit to the premises on the 29th September 2016 in relation to the existing 4 gaming machines being made available for use. The Licensing Enforcement Team would therefore have no concerns if the Licensing Sub Committee is minded to grant the application submitted.

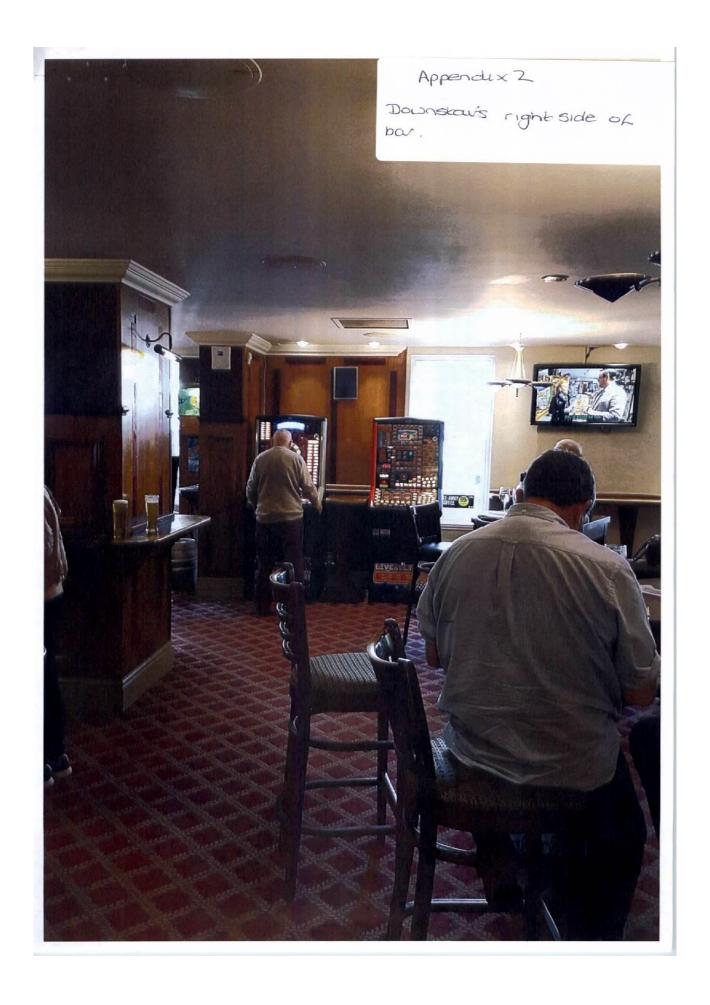
The Licensing Enforcement Team considers the number and category of gaming machines applied for will continue to satisfy the requirement that gambling at the premises remains ancillary to the main purpose being the sale of alcohol and is not an excessive number given the size of the premises.

The Codes of Practice (Appendix 6) issued by the Gambling Commission further ensures the appropriate siting, supervision and operation of gaming machines at the premises.

The applicant has measurers 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.

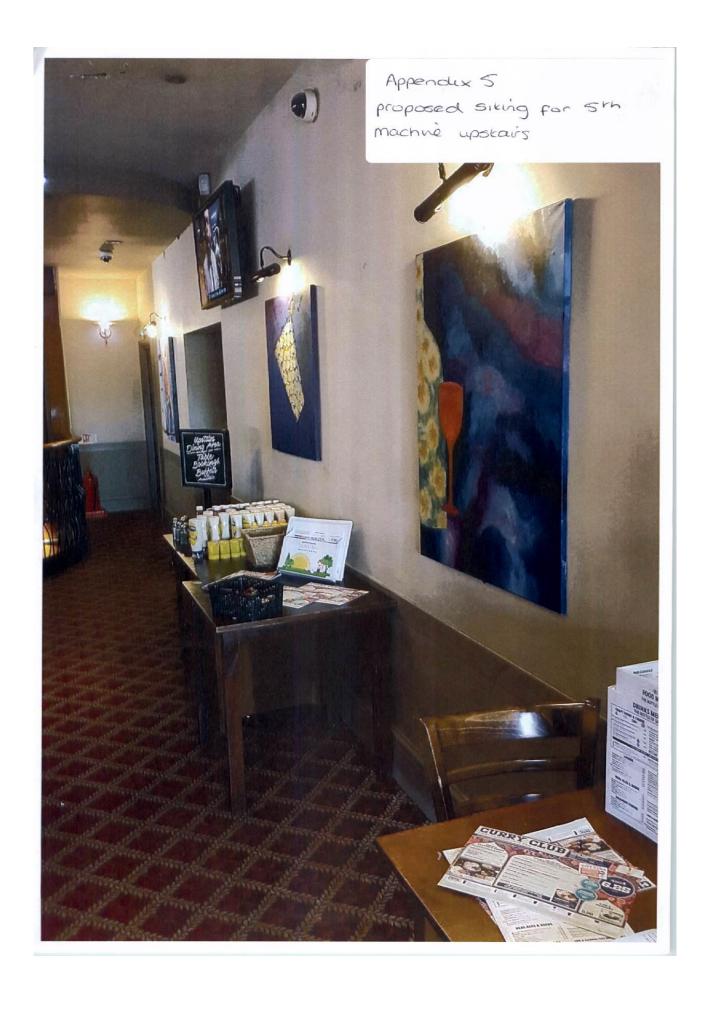
As a Responsible Authority it is important to bear in mind that gambling must remain ancillary to the main purpose of the premises and the exemptions and permits are reliant on the premises holding a valid alcohol licence.











GAMBLING COMMISSION

Code of practice for gaming machines in clubs and premises with an alcohol licence

For club gaming permits, club machine permits and alcohol licensed premises
August 2014

1 For club gaming permits, club machine permits and alcohol This is the Commission's Code of Practice issued under section 24 of the Games

This is the Commission's Code of Practice issued under section 24 of the Gambling Act 2005 (the Act) relating to provision of facilities for gaming machine gambling in accordance with club gaming, club machine and alcohol licensed premises permits. This includes:

- Registrations under Parts II and III of the Gaming Act 1968 which, under transitional provisions, are treated as club gaming and club machine permits respectively
- Club gaming and club machine permits issued under the Club Gaming and Club Machine Permits (Scotland) Regulations 2007
- Premises which have a licence issued by a Licensing Board under section 26(1) or 47(2) of the Licensing (Scotland) Act 2005 authorising the sale of alcohol on the premises.

Code provision 1.1

Club gaming permits, club machine permits and alcohol Gaming machines in clubs and premises with an alcohol licence

- 1 Compliance with the code of practice should be the responsibility of a designated person:
 - in pubs in England and Wales: the designated premises supervisor (which the Licensing Act 2003 requires as a condition of any alcohol premises licence)
 - in premises which are licensed to serve alcohol for consumption on the premises under the relevant Scottish licence: the premises manager (which the Licensing (Scotland) Act 2005 requires as a condition of the premises licence), or,
 - where an occasional licence is held, a responsible person designated by the holder of the licence
 - in clubs in England and Wales:
 - o if an alcohol licence is held, the designated premises supervisor
 - if no alcohol licence is held, a responsible individual to be nominated by the club management or other governing body elected by the members
 - in clubs in Scotland:
 - for a qualifying club under the Licensing (Clubs) (Scotland) Regulations 2007 (SI No 76 of 2007) a person nominated by the club management committee, or other governing body elected by the members, and who is trained in accordance with the Licensing (Training of Staff) (Scotland) Regulations 2007
 - for a qualifying club operating under an occasional licence a responsible person to be nominated by the club management committee or other governing body elected by the members
 - the name and contact details of the nominated person should be made available to the clerk of the relevant licensing board.

1

2 Location and operation of machines

All permit holders

Compliance with these provisions is a condition of your permit, and failure to do so could result in revocation of the permit.¹

Code provision 2.1 Location and operation of machines All permit holders

- 1 All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.
- 2 Permit holders must have in place arrangements for such supervision.
- 3 All 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. 'ATM' means a machine located on the premises, which enables a person using it to obtain cash by use of a credit or debit card.

3 Access to gambling by children and young persons

Compliance with this section is <u>not</u> a condition of your permit. However it sets out good practice in this area and the Commission considers it should be implemented by permit holders.

Code provision 3.1 Access to gambling by children and young persons All permit holders

- 1 Permit holders should put into effect procedures intended to prevent underage gambling. This should include procedures for:
 - checking the age of those who appear underage
 - · refusing entry to anyone unable to produce an acceptable form of identification.
- 2 Permit holders should take all reasonable steps to ensure that all relevant employees understand their responsibilities for preventing underage gambling.
 - · Permit holders should only accept identification which:
 - · contains a photograph from which the individual can be identified
 - · states the individual's date of birth
 - is valid
 - is legible and has no visible signs of tampering or reproduction.
- 3 The Commission considers acceptable forms of identification to include: any identification carrying the PASS logo (for example Citizencard or Validate); a driving licence (including provisional licence) with photocard; or a passport.

¹ Compliance with these provisions is a condition of the relevant permit as a result of the Gambling Act 2005; section 271 for Club Gaming Permits, section 273 for Club Machine Permits, section 282 for alcohol licensed premises using their automatic machine permissions and section 283 for licensed premises Gaming Machine Permits and alcohol licensed premises Gaming Machine Permits

Code of practice for gaming machines in clubs and premises with an alcohol licence

Code provision 3.2
Access to gambling by children and young persons
All permit holders

1 Procedures should be in place for dealing with cases where a child or young person repeatedly attempts to gamble on category B or C machines, including oral warnings, reporting the offence to the Commission and the police, and making available information on problem gambling.

4 Complaints and disputes

Compliance with this section is <u>not</u> a condition of your permit. However it sets out good practice in this area and the Commission considers it should be implemented by permit holders.

Code provision 4.1 Complaints and disputes All permit holders

- 1 Permit holders should put into effect a written procedure for handling customer complaints and disputes regarding the use of gaming machines on their premises
- 2 A 'complaint' means a complaint about any aspect of the permit holder's conduct of their permissible activities, and a 'dispute' is any complaint which:
 - a) is not resolved at the first stage of the complaints procedure, and
 - b) relates to the outcome of the complainant's gambling transaction.
- 3 Permit holders should ensure that:
 - customers are told the name and status of the person to contact about their complaint
 - customers are given a copy of the complaints procedure on request or on making a complaint
 - all complaints are handled in accordance with the procedure.

Gambling Commission August 2014

Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at: www.gamblingcommission.gov.uk

Copies of this document are available in alternative formats on request.

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Gambling Commission August 2014 ADV 14/07

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: 474 / 1

This licensed premises gaming machine permit authorises:

JD Wetherspoon Plc

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

Bottle of Sack, 2 Birmingham Road, Sutton Coldfield, B72 1DD

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: 18/03/2010

This permit is issued by:

Birmingham City Council

Licensing Section, Crystal Court, Aston Cross Business Village,
50 Rocky Lane, Aston, Birmingham, B6 5RQ

Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ

Appendix 4

Gaming Machines (Fruit Machine, Slot Machine) Categories

Gaming machines (fruit machines, slot machines) fall into categories depending on the maximum stake and prize available:

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)
Α	Unlimited	Unlimited
<u>B1</u>	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)
<u>B2</u>	£100	£500
<u>B3</u>	£2	£500
B3A	£2	£500
<u>B4</u>	£2	£400
<u>c</u>	£1	£100
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	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 machine)	20p	£20 (of which no more than £10 may be a money prize)

