

BABERGH DISTRICT COUNCIL

FROM: Acting Head of Legal and Administrative Services

REPORT NUMBER **E 249**

TO: **LICENSING AND APPEALS COMMITTEE**

DATE OF MEETING **27 January 2006**

GAMING ACT 1968 (AS AMENDED) - AMUSEMENTS WITH PRIZES GAMING

MACHINES

1. SUMMARY

- 1.1 To consider the procedure in respect of amusements with prizes (AWP) gaming machines on non-alcohol licensed premises and also for premises holding a premises licence under the Licensing Act 2003 authorising the sale of alcohol on the premises. The administration and determination of AWP gaming machine permit applications in respect of premises holding a premises licence under the Licensing Act 2003 is a new responsibility passed to Licensing Authorities from the Licensing Justices' with effect from 24 November 2005.
- 1.2 It should be noted that the Acting Head of Legal and Administrative Services has delegated authority to determine any application made for a permit under the Gaming Act 1968. The grant of permits under Section 34 of the Gaming Act 1968 remains a function under that Act but the Licensing Sub-Committee (the Council's alcohol licensing committee established under the Licensing Act 2003) is authorised to deal with Section 34 applications.

2. RECOMMENDATIONS

- 2.1 That the Committee note the new responsibility for AWP gaming machines on alcohol on-licensed premises.
- 2.2 That AWP Gaming Machine permit applications ordinarily be determined by Licensing Sub-Committees of 3 Members, in the following circumstances:-
- (a) applications for two or more machines in respect of a licence permit on alcohol licensed premises.
 - (b) applications where the Acting Head of Legal and Administrative Services is minded to refuse or restrict the number of machines.
- 2.3 That the Scheme of Delegation – Responsibility for Functions - E) Licensing and Appeals Committee – be amended as required to include the arrangements set out in 2.2 above.

The Committee is able to resolve this matter.

3. FINANCIAL IMPLICATIONS

- 3.1 The current statutory fee for a permit is £32, which is unlikely to have any significant effect on licensing income. The Licensing Authority has no powers to attach conditions to the grant of a permit. Applications are either granted or refused. The Crown Court acts as the appellate authority for any decision to refuse an application, therefore the costs involved with any appeal proceedings are likely to be significant.

4. **KEY INFORMATION**

- 4.1 Under section 34(1) of the Gaming Act 1968, Local Authorities have responsibility for issuing permits for lower stake 'coin or token' AWP machines usually found in fast food takeaways, taxi waiting rooms etc. In 1986 Babergh adopted a policy of only granting one machine per premises for such premises. In addition Local Authorities have been able to issue permits for the higher stake 'all cash' machines for over-18's amusements arcades in its area. Currently Babergh only has around 8 permits on issue under section 34(1) and there are no arcades in the district licensed at this time.
- 4.2 Prior to 24 November 2005, the Licensing Justices' of the Magistrates' Courts were responsible for issuing permits for AWP gaming machines on premises licensed to sell alcohol for consumption on the premises. The Justices' operated their own good practice guidance whereby they would normally allow up to two AWP machines per licensed premises without conducting any hearing of the application. For applications requesting to permit more than two machines, the Justices' normally convened a hearing where the applicant was required to justify the additional number of machines.
- 4.3 Following amendment to the Gaming Act 1968 by the Licensing Act 2003, responsibility for issuing permits for these machines now falls upon local Licensing Authorities. Applications are still made under section 34 of the Gaming Act 1968, which has been significantly amended by the 2003 Act. Schedule 9 of the 1968 Act deals with procedural detail and grounds for decision making.
- 4.4 For information, following implementation of the Gambling Act 2005 currently timetabled for September 2007, premises holding a premises licence authorising sale of alcohol for consumption on the premises under the Licensing Act 2003 will be permitted up to two machines by simply notifying the Licensing Authority, paying a fee, and without the requirement of making a formal application.
- 4.5 The Acting Head of Legal and Administrative Services has delegated authority to determine applications for licences in respect of gaming. It is proposed that applications for two or more machines in respect of a licence permit on alcohol-licensed premises, or applications where the Acting Head of Legal and Administrative Services is minded to refuse or restrict the numbers of the machines will ordinarily be referred to the Sub-Committee for determination.

5. **APPENDICES**

None.

6. **BACKGROUND PAPERS**

None.

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