



Public Agenda Item: Yes

Title: Gambling Act 2005 – Two applications for the variation of a Licensed Premises Gaming Machine Permits

Wards Affected: Tormohun

To: Licensing Sub-Committee 16th August 2012

Contact Officer: Karl Martin

Telephone: 01803 208093

E.mail: Karl.martin@torbay.gov.uk

1. Key points and Summary

- 1.1 To consider and determine an application for a variation of a Licensed Premises Gaming Machine Permit for two premises which are the Green Ginger, Winter Gardens, Fleet Walk Shopping Centre, Torquay, TQ2 5DZ and The London Inn, 15-16 The Strand, Torquay, TQ1 2AA.
- 1.2 The applications relate to all the Corporate Priorities within the Community Plan.
- 1.3 Torbay Council's Gambling Policy 2010 scheme of delegation requires that decisions for more than 4 gaming machines, in a premise with a Premises Licence issued under the Licensing Act 2003, must be determined by a Licensing Committee. See Appendix 1.
- 1.4 The Licensing Committee when considering the application shall have regard to the Licensing Objectives, any relevant guidance issued by the Gambling Commission under section 25 and any such matters they consider relevant to the application.
- 1.5 The Licensing Objectives are
 - Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime,
 - Ensuring that gambling is conducted in a fair and open way, and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.6 There are no requirements under the Act for any statutory consultation, so therefore there are no representations from any Responsible Authority or Interested Party, however the Act allows representations to be sought and on this occasion the application has been forwarded to The Business Manager of the Torbay Safeguarding Children Board.
- 1.7 Upon making a decision either the permit shall be issued as soon as reasonably practicable or the applicant shall be notified of the reasons for the refusal.

2. Introduction

- 2.1 An application has been made under Schedule 13 of the Act to vary its existing Alcohol Licensed Premises Gaming Machine Permits for Category C and D gaming machines.

A copy of the application for The Green Ginger is shown in Appendix 2 and a copy of The London Inn is shown under Appendix 3.

A brief description of the application, as follows:

The Green Ginger

To increase the maximum number of category C and D gaming machines from 6 to 7.

The London Inn

To increase the maximum number of Category C and D gaming machines from 5 to 6.

- 2.2 The Council as Licensing Authority is satisfied that the applicant has met the administrative requirements of Schedule 13.

- 2.3 The '*Gambling Commission's Guidance to Local Authority's May 2009*' issued under section 25 Gambling Act 2005 it states that:

- 26.9 In determining an application, the 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.

- 2.4 The Licensing Authority felt it was relevant to consult and seek views from Torbays Safeguarding Children Board (TSCB). A representation has been submitted by the TSCB Professional Adviser and Business Manger. This is shown as Appendix 4.

- 2.5 The Licensing Authority felt it was relevant to visit both premises and meet the managers to consider matters such as the size of the premises, the confidence in the management of those premises, and any policies or procedures they have with regard to meeting the licensing objectives, but most notably "Protecting Children and other Vulnerable Persons from being harmed or exploited by gambling".

- 2.6 The Licensing Committee may wish to consider the size of the premises and whether the granting of additional gaming machines would alter the character of the premises. The size of the two premises is as follows:

The Green Ginger – 6,500 ft² approx

The London Inn – 5000 ft² approx

- 2.7 Attached is JD Wetherspoon's Policy and Procedure Overview of Alcohol Licensed Gaming Machine Permits where they operate a Challenge 21 policy regarding gaming machines. See Appendices 5 and 6. The authority has a high confidence in management for both premises.

2.8 The 'Gambling Commission's Guidance to Local Authority's May 2009' issued under Section 25 Gambling Act 2005 it states that:

- 26.6 Holders of alcohol-licensed premises gaming machine permits are required to comply with a code of practice, which has been drawn up by the Commission on the location and operation of machines.

2.9 The key requirement of the Gambling Commission Code of Practice is:

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.

The Licensing Authority is able to confirm compliance with the Code of Practice. See Appendix 7 for the Gambling Commission Code of Practice.

2.10 The Authority is required to conduct a hearing giving the applicant the opportunity to make oral or written representations. This has been done by writing to the applicant. No time scales are laid down in the legislation as to when a hearing must be held. The licence holder has confirmed they will be attending the hearing and have submitted a written representation. See Appendices 5 and 6.

2.11 The matter must be considered on its merits, having received details of the issues arising either at a hearing or by written representation from the applicant. A decision must be made, having considered the representation, either:-

(a) to grant the application;

(c) to refuse the application; or

(d) to grant it in respect to –

(i) a smaller number of machines than that specified in the application,

(ii) a different category of machines from that specified in the applications, or

(iii) both.

There is no ability to add conditions.

2.12 If the application is refused, in whole or in part, a Right of Appeal to the Magistrates' Court is granted by Schedule 13 of the Act to the applicant. The applicant has 21 days from the date of the notification of the decision, to initiate such an appeal.

Frances Hughes
Executive Head Community Safety

Appendices

Appendix 1	Gambling Policy 2010 Scheme of delegation (may not need in future applications)
Appendix 2	Copy of application for Green Ginger
Appendix 3	Copy of application for London Inn
Appendix 4	TCSB representation
Appendix 5	Written representation from applicant
Appendix 6	Plan with written representation from applicant
Appendix 7	Gambling Commission Code of Practice (March 2012)

If the above appendices are not attached to this report, they can be viewed at Connections Offices in Torquay, Paignton and Brixham and Torquay, Paignton, Churston and Brixham Libraries. Copies can also be obtained from the Democratic Services Office, Town Hall, Torquay.

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Torbay Council Gambling Policy 2010

Gambling Act 2005 Schedule 13

Gambling Commission Guidance 3rd Ed (May 2009)

Gambling Commission Gaming Machine Permits - Code of Practice (March 2012)