

LICENSING COMMITTEE	AGENDA ITEM No. 4
07 APRIL 2022	PUBLIC REPORT

Report of:	Peter Gell, Assistant Director: Regulatory Services	
Cabinet Member(s) responsible:	Councillor Allen, Deputy Leader and Cabinet Member for Housing, Culture and Communities	
Contact Officer(s):	Gareth Brighton, Licensing & Business Manager Maria Crowe, Trainee Regulatory Officer	Tel. 864103

Applicant	The Original Bowling Company Limited, Focus 31 West Wing, Cleveland Road Hemel Hempstead Industrial Estate, Hemel Hempstead, Hertfordshire, HP2 7BW
Represented by	TLT Solicitors, One Redcliff Street, Bristol, BS1 6TP
Premises	Puttstars, Unit LL1 First & Second Floor, Queensgate Shopping Centre, Peterborough, PE1 1NT.

RECOMMENDATIONS
FROM: Peter Gell, Assistant Director: Regulatory Services
Members are asked to consider and determine the application for a Licensed Premises Gaming Permit for the use of thirty five (35) Category D gaming machines to be located at Unit LL1 First & Second Floor, Queensgate Shopping Centre, Peterborough, PE1 1NT.

1. PURPOSE OF REPORT

1.1 Members are asked to consider and determine the application for a Licensed Premises Gaming Permit (as defined by Section 283 of the Gambling Act 2005) for the use of thirty five (35) Category D gaming machines to be located at Unit LL1 First & Second Floor, Queensgate Shopping Centre, Peterborough, PE1 1NT (part of the former John Lewis store), taking into account the following:

- The relevant legislation
- The Licensed Premises Gaming Permit application submitted by TLT – **Appendix A**
- The proposed Floor Plans of the premises including the proposed gaming machine locations – **Appendix B**
- Examples of proposed gaming machine submitted by the Applicant - **Appendix C**
- The Gambling Commission Guidance to Local Authorities (May 2021)
- The relevant provisions of PCC's Gambling Act 2005 Statement of Principles

1.2 Owing to the number of Category D gaming machines being applied for, Peterborough City Council's Gambling Act 2005 Statement of Principles and the obligation to promote the licensing objectives, it is appropriate that the matter be referred to the Licensing Committee for determination.

2. BACKGROUND INFORMATION

2.1 An application for the grant of a Licensed Premises Gaming Machine Permit was received by the Licensing Authority on 24 January 2022 from TLT, solicitors acting on behalf of the applicant, The Original Bowling Company Limited. – **see Appendix A**

2.2 The application is made under Section 283 of the Gambling Act 2005 and is requesting the grant of a permit for the use 35 Category D gaming machines. Supplied with the application is a set of floor plans that outline, inter alia, the proposed position and location of gaming machines within the premises. - **see Appendix B**.

2.3 Section 283 of the Gambling Act 2005 states that a Licensed Premises Gaming Machine Permit is issued by a licensing authority authorising a person to make gaming machines of Category C or D (or both) available for use on licensed premises.

2.4 A separate application for a premise licence has also been submitted to the Licensing Authority by the applicant. A premise licence was granted on the 08 February 2022.

2.5 Under Section 282, Gambling Act 2005, pubs and other alcohol licensed premises are automatically entitled to two category C or D gaming machines upon notification to the local licensing authority of their intention to make gaming machines available for use. The premises must be licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises, without the requirement that alcohol is served only with food and there must be a bar for serving alcohol to customers on the premises. The gaming machines must be located on these licensed premises.

Relevant premises may also apply for a permit to provide a greater number of machines. Licensing authorities can issue gaming machine permits which allow additional category C and D gaming machines to be provided. Where a gaming machine permit a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to, an automatic entitlement to two machines.

2.6 There is no statutory limit to the number of gaming machines which may be applied for and permits will be granted for the life of the premises, unless a shorter period is specifically stated. An annual fee is payable to maintain a permit.

2.7 Licensing Authorities can decide to grant an application with a smaller number of machines and/or different category of machines than applied for. Any conditions (other than these) cannot be attached to a Licensed Premises Gaming Machine Permit.

2.8 The application for the grant of a Licensed Premises Gaming Machine Permit relates to permission for 35 Category D gaming machines. Category D gaming machines are low-stake fruit machine style machines, coin pushers (commonly referred to as 'penny falls') or crane grabs.

2.9 The Categories of Gaming Machine Regulations 2007 provide the definition of Category D gaming machines, that being machines with a maximum stake of 10p or 30p non-monetary and maximum prize of £5 cash or £8 non-monetary.

2.10 The applicant has supplied the Licensing Authority with examples of the of Category D gaming machines intended to be made available for use on the premises. - **see Appendix C.**

3. RELEVANT MATTERS

3.1 In exercising their functions under the Gambling Act, particularly in relation to premises licences, temporary use notices and some permits, licensing authorities must have regard to the licensing objectives set out in Section 1 of the Act, namely:

- 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.

3.2 In relation to Licensed Premises Gaming Machine Permits, the Gambling Commission Guidance to Local Authorities published in May 2021 states:

Para 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.

Para 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.

3.3 The Gambling Act requires that a licensing authority publish a 'Statement of Principles' that it proposes to apply when exercising its functions. In relation to Licensed Premises Gaming Machine Permits, Peterborough City Council's Statement of Principles states:

Para 24.3 If a premises wishes to have more than two machines, an application for a permit is required and this licensing authority shall consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under Section 25 of the Act, and "such matters as they think relevant". This authority considers that "such matters" will be decided on a case-by-case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and will expect the applicant to satisfy the authority

that there will be sufficient measures in place to ensure that under 18-year-olds do not have access to any adult only gaming machines. Such measures may include:

- Adult machines being in sight of bar
- Appropriate notices / signage

Para 24.6 Where an application is received for more than 19 gambling machines in alcohol licensed premises, Officers will have the discretion to arrange a hearing for members to consider the application.

Para 24.7 It should be noted that this licensing authority can decide to grant the application with a smaller number of machines and/or different category of machines than applied for. Conditions (other than these) cannot be attached.

3.4 The Licensing Authority has had communication with the applicant solicitors, TLT Solicitors. TLT have provided some clarity in respect of the siting and number of actual gaming machines, “the 35 machines being applied for would I anticipate be split between the two floors, albeit that the precise number on each floor will not be known just yet and would remain flexible when the premises open.

“To be clear, the request for 35 machines would be for 35 player positions and not 35 separate machines, so for example where a penny falls machine has 8 player positions for example this would account for 8 machines under the permit albeit only one physical machine”.

3.5 On 10 February 2022, observations were sought from both Cambridgeshire Constabulary and the Gambling Commission in relation to this application. On 13 February 2022, a response was received from Cambridgeshire Constabulary informing the Licensing Authority that they had no representations to make in respect of this application. The Licensing Authority did not receive a response from the Gambling Commission

4. IMPLICATIONS

4.1 Corporate Resources - The Legal Department support the Licensing Team regarding the provision of advice and guidance on street trading matters.

4.2 Financial Implications – The applicant has paid a fee of £150 to make the application. The fee is not refundable upon refusal and is payable upon renewal every three years.

4.3 Legal Guidance has been sought from the Legal Department on the compilation of this report.