

The Highland Licensing Board

Meeting – 9 May 2023

Agenda Item	9.1
Report No	HLB/058/23

Gambling Act 2005

Application for variation of a licensed premises gaming machine permit

The Kings Highway, 72-74 Church Street, Inverness, IV1 1EN

Report by the Clerk to the Licensing Board

Summary

An application has been received by from JD Wetherspoon (Scot) Ltd for the variation of a gaming machine permit to permit 5 category C gaming machines (current gaming machine permit is for 4 Category C machines) to be made available at the licensed premises at The Kings Highway, 72-74 Church Street, Inverness, IV1 1EN.

1.0 Background

- 1.1 The holder of a premises licence for on sales of alcohol has an automatic entitlement to make up to two Category C or D gaming machines available on the premises. If they wish to make more than two such machines available, a licensed premises gaming machine permit must be obtained. There is no limit to the number of Category C or D machines which may be permitted under such a permit.
- 1.2 Category C machines may be played only by persons over the age of 18 and have a maximum stake of £1 and a maximum prize of £100.
- 1.3 Category D machines may be played by persons under the age of 18 and can offer money prizes or non-money prizes, or a combination of the two. They have various maximum stake limits of up to £1, depending on type of prize. Prizes are restricted to £5 for money only prizes, or up to £20 for a combined money and non-money prize (of which no more than £10 can be money). Where there is no money prize, the value of the non-money prize is restricted to £50.
- 1.4 The premises licence holder, JD Wetherspoon (Scot) Ltd, for The Kings Highway seeks a variation to the current gaming machine permit to allow 5 Category C machines to be made available in the licensed premises. The current gaming machine permit for the premises is for 4 Category C machines.

2.0 Legislation

2.1 In terms of the Licensed Premises Gaming Machine Permits (Scotland) Regulations 2007, the Board require to consider applications having regard to the licensing objectives set out in the Gambling Act 2005.

2.2 Those licensing objectives are

- 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.

2.3 The Act also requires the Board to have regard to any relevant guidance issued by the Gambling Commission and “such other matters as it thinks relevant”. The Commission’s Guidance provides no advice on matters which might be relevant.

2.4 In this regard, however, the Board’s Policy Statement, to which the Board must also have regard, states that relevant matters will be decided on a case by case basis, but adds that:-

- Regard will generally be had to the need to protect children and vulnerable persons from harm or being exploited by gambling and the Board will expect the applicant to satisfy it that there will be sufficient measures in place to ensure that under 18 year olds do not have access to adult only gaming machines (Category C).
- Measures which will satisfy the Board that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful.
- As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

2.5 In determining the application, the Licensing Board is entitled to: -

- (a) grant the application;
- (b) refuse the application; or
- (c) grant it in respect of:
 - a smaller number of machines than that specified in the application
 - a different category of machines from that specified in the application or,
 - both

2.6 The Board may not refuse an application, or grant an application in respect of a different category or smaller number of machines than that specified in the application, without first giving the applicant an opportunity to make

representations, either orally or in writing or both.

- 2.7 The Licensing Board may not attach conditions to any permit granted. If the permit is granted, however, the permit holder will be required to comply with the Code of Practice issued by the Gambling Commission on the location and operation of gaming machines in licensed premises.

3. Recommendation

The Board is invited to consider the application.

Reference: HC/INBS/110

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Date: 25 April 2023