

# APPLICATION FOR A LICENSED PREMISES GAMING MACHINE PERMIT - HOLLYWOOD BOWL AND PUTTSTARS, UNIT 220, THE CHIMES (UPPER MALL), UXBRIDGE, UB8 1QJ

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Jhini Mukherjee , Licensing Officer
<b>Papers with report</b>	Appendix 1 – Copy of the application from for the gaming machine permit Appendix 2 – Copy of the plan of premises Appendix 3 – Copy of Licensing Act 2003 Premises Licence – <b>TO FOLLOW</b> Appendix 4 – Copy of the Gambling Commission’s code of practice for Gaming Machine Permits
<b>Ward(s) affected</b>	Uxbridge

## SUMMARY

To consider an application for a Licensed Premises Gaming Machine Permit for 40 Category C & Category D Gaming Machines in respect of Hollywood Bowl and Puttstars, Unit 220, The Chimes (upper mall), Uxbridge, UB8 1QJ

## RECOMMENDATION

**That the Licensing Sub Committee determine the application considering the application for a licensing premises gaming machine for 40 Category C and Category D gaming machines.**

## INFORMATION

1.1 An application for a Licensed Premises Gaming Machine Permit for 40 Gaming Machines was submitted by The Original Bowling Company Limited in respect of Hollywood Bowl and Puttstars, Unit 220, The Chimes (upper mall), Uxbridge, UB8 1QJ

The application is for 5 Category C Gaming Machines and 35 Category D Gaming Machines.

**Note:** The application form is annexed to this report as **Appendix 1**

1.2 The application was submitted in accordance with the procedures set out in the s.283 Gambling Act 2005. The application procedure does not require any consultation with responsible authorities or any advertising/legal notice.

1.3 Hillingdon’s Statement of Gambling Principles 2023 – 2025 requires the Licensing Sub-Committee to determine applications for more than 5 Gaming Machines.

## 1.4 General Information

- The premises has the benefit of a Premises Licence issued under the Licensing Act 2003 for the sale of alcohol, regulated entertainment and late-night refreshment.
- The premises is used as a multi-function entertainment/bowling complex with bars, a mini-golf course and dedicated amusement areas.
- Permit holders are required to comply with the Gambling Commission's code of practice for Gaming Machine Permit (attached).

### **Gaming Machine Categories:**

CATEGORY	MAXIMUM STAKE	MAXIMUM PRIZE
<b>A</b>	Unlimited	Unlimited
<b>B1</b>	£5	£10,000*
<b>B2</b>	£100 (in multiples of £10) £2 effective April 2019	£500
<b>B3</b>	£2	£500
<b>B3A</b>	£2	£500
<b>B4</b>	£2	£400
<b>C</b>	£1	£100
<b>D**</b>	-	-
<b>D</b> non-money prize (other than crane grab machine)	30p	£8
<b>D</b> non-money prize (crane grab machine)	£1	£50
<b>D</b> money prize (other than a coin pusher or penny falls machine)	10p	£5
<b>D</b> 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)
<b>D</b> 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)

*Category B1 where the prize value available through its use is wholly or partly determined by reference to use made of one or more other subcategory B1 machines, no more than £20,000*

*\* \*Category D machines with a 10p stake are entitled to offer prizes of up to £5 in cash, or up to £5 in cash and £3 in non-monetary prizes. Category D machines with a 30p stake can offer £8 in non-monetary prizes only.*

## FINANCIAL IMPLICATIONS

- 2.0 Members should be aware that the Environment and Consumer Protection does not have a budget provision for costs, should the applicant be successful in appealing to the Court(s) against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Councils financial policy.

## LEGAL IMPLICATIONS

- 3.1 When considering an application for a grant of a Licensed Premises Gaming Machine Permit, the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. Section 1 of the Gambling Act 2005 creates three licensing objectives:
- 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
- 3.2 Under the provisions of Schedule 13 of the Gambling Act of 2005 (“the 2005 Act”) the Licensing Authority shall consider the application having regard to the licensing objectives, any relevant guidance issued under Section 25 of the 2005 Act (Gambling Commission Guidance) and such other matters as they think relevant. Members should also have regard to Hillingdon’s Statement of Gambling Policy.

### **Relevant sections of the Gambling Commission’s Guidance to Licence Authorities**

- 3.3 At paragraph 1.19 of the guidance it states:

*“The Act places a legal duty on both the Commission and licensing authorities to aim to permit gambling, in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives. The effect of this duty is that both the Commission and licensing authorities must approach their functions in a way that seeks to regulate gambling by using their powers, for example, powers to attach conditions to licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.”*

- 3.4 At paragraph 26.1 of the guidance it states:

*“It is important to remember 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. Experience indicates that, in circumstances where breaches of gambling regulations occur, licensing authorities have a powerful lever in securing compliance, due to their ability to review the alcohol licence.”*

- 3.5 At paragraph 26.8 of the guidance it states:

*“Licensing authorities may issue licensed premises gaming machine permits for any number of category C or D machines in licensed premises (alcohol licensed premises as described in s.277 of the Act). 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.”*

- 3.6 At paragraph 26.12 of the guidance it states:

*“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.”

3.7 At paragraph 26.13 of the guidance it states:

*“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.”*

3.8 Section 283(3) of the 2005 Act requires that the holder of a licensed gaming machine permit shall comply with any relevant provision of a code of practice under Section 24 of the 2005 Act (Section C - Gaming machines in clubs and premises with an alcohol licence)

### **Relevant sections of the Gambling Commission’s Code of Practice**

3.9 Code provision 1.1 states:

*“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)”*

3.10 Code provision 2.1 states:

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.”*

3.11 Code provision 3.1 states:

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.*

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**Classification: Public**

**Licensing Sub-Committee – 7 March 2024**

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.”*

3.12 Code provision 3.2 states:

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.”*

#### Relevant Sections of Hillingdon’s Statement of Gambling Policy

3.13 At paragraph 6.29 it states:

*“This Licensing 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 harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under-18 year olds do not have access to the adult-only gaming machines.”*

3.14 At paragraph 6.30 it states:

*“Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that 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.”*

3.15 At paragraph 6.31 it states:

***“The Licensing Authority will usually expect holders of gaming machine permits to ensure that the gaming machines are sited in accordance with any relevant code of practice issued by the Gambling Commission and to ensure that they can be adequately supervised whilst in use.”***

3.16 A child is defined in Section 45 of the 2005 Act as an individual who is less than 16 years old and a young person as an individual who is not a child but is less than 18 years old.

3.17 Section 46(1) of the 2005 Act makes it an offence if a person invites, causes or permits a child or young person to gamble. However this does not apply in relation to the use of a category D machine (Section 46(2)(e) of the 2005 Act) because children are permitted to use them.

3.18 The Gaming Machine (Circumstances of Use) Regulations 2007 require amongst other things that a gaming machine shall display the following information—

- (a) the category, or sub-category, of the machine;
- (b) the name and telephone number of a person from whom assistance may be obtained by people who are or may be affected by problems related to gambling; and

- (c) unless it is a Category D gaming machine, information constituting a warning that the machine is not to be used by a child or young person.

3.19 The application 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 applicationsor
  - (iii) both.

There is no ability to add conditions.

3.20 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under s.149 of the Equality Act 2010. In summary s.149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- c) Foster good relations between persons who share relevant protected characteristics and persons who do not.

3.21 Section 149(7) of the Equality Act 2010 defines nine relevant protected characteristics examples are; race, sex, age, disability, gender reassignment and religious beliefs.

3.22 The decision determined by the Sub-Committee will be accompanied with clear, cogent reasons for that decision, having had due regard to being reasonably consistent with the Licensing Objectives; the Human Rights Act 1998; any relevant code of practice under Section 24 of the Gambling Act 2005; any relevant guidance issued by the Commission under Section 25 of the Gambling Act 2005; and Hillingdon's Statement of Gambling Policy. The decision and the reasons for that decision will be served on the Applicant as soon as is reasonably practicable.

3.23 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 notice of the decision, to initiate such an appeal.

3.24 Following such an Appeal, the Magistrates' Court may:-

- a) dismiss the appeal;
- b) substitute for the decision appealed against any other decision which could have been made by the licensing authority (with effect from such date and on such transitional or other terms the court may specify);

- c) restore a permit (with effect from such date and on such transitional or other terms the court may specify);
- d) remit the case to the licensing authority to dispose of it in accordance with the direction of the court;
- e) make an order on costs.

## **BACKGROUND DOCUMENTS**

The Gambling Act 2005

Gambling Commission Guidance to Licensing Authorities

Gambling Commission Code of Practice

The Council's Statement of Gambling Principles