

**Meeting:** Licensing Panel  
**Date:** 11<sup>th</sup> May 2005  
**Subject:** Application by Mr Amarjit Singh Mann of Ablethird Limited for the Grant of a Permit for the use of Amusement Machines with Prizes in Respect of the Amusement Centre to be Established at 8 St Ann's Road, Harrow, Middlesex HA1 1LG  
**Responsible Officer:** Director of Legal Services  
**Contact Officer:** Abiodun Kolawole  
**Portfolio Holder:** Councillor Phil O'Dell  
**Key Decision:** No  
**Status:** Public

## **Section 1: Summary**

### **Decision Required**

Members are asked to determine the application in accordance with the guidance in Section 2 below.

### **Reason for report**

This report gives details of the application and gives guidance to assist the Licensing Panel in reaching a decision.

### **Benefits**

Whilst this report is in response to a request for a permit, the public safety and environmental control aspects of licensing addresses corporate issues. In particular, the quality of the environment, promotional leisure pursuits, a reduction in crime and disorder and a prosperous local economy.

## **Cost of Proposals**

There are no financial implications for the Council relating to the consideration of this application by the Panel. However, it should be noted that if there is an appeal to the Crown Court by the applicant against the decision of the Panel then it is highly likely that the Council will have to pay the applicant's legal costs in the event of the appeal being successful.

## **Risks**

There is a financial risk to the Authority as set out in the Costs of the Proposals above.

## **Implications if recommendations rejected**

This is not applicable in this case.

## **Section 2: Report**

### Brief History

The premises are currently being used as a gift shop/discount retailer. Planning permission has been obtained for its future use as an amusement centre for the operation of amusement with prizes machine. The Gaming Act 1968 renders the use of gaming machines unlawful unless the machines have the benefit of a permit granted under Schedule 9 of the Act or the use of the machines falls within the exceptions provided for in the Act.

In the case of amusement places where the premises are to be devoted wholly or mainly to amusement with prize machines, the grant of a permit is at the discretion of the Local Authority, but a permit cannot be refused without giving the applicant an opportunity of appearing before the Authority or a committee of

Authority and being heard by them. It follows from this that the Authority has a duty to consider each case on its merits.

There is no power to attach conditions to the grant of a permit.

Home Office Circular No. 100/1988 points out that a local authority's discretion to refuse to grant a permit is unaffected by the fact that planning permission may previously have been obtained for the use of the premises as an amusement place. The Circular sees the discretion as entrusted to local authorities on general grounds transcending planning considerations. The Circular states that this implies that, in considering an application, an authority should take careful account of the social considerations obtained in its area. It may be, for example, that there are already sufficient amusements places in the area or that they are being over-frequented by children or young people.

A list of gaming establishments within the London Borough of Harrow is appended to this Report.

There is a right of appeal to the Crown Court against refusal to grant a permit and the Crown Court is empowered to consider the application afresh as if it had been made to the Court in the first instance.

The application states that admission to the premises will be limited to persons aged 18 or over. Paragraph 10 B of Schedule 9 to the Gaming Act 1968 states that the permit is subject to a condition that no person under 18 is admitted to the premises.

As stated above, the Panel is not entitled under the legislation to attach any other conditions to the permit. The Panel is advised to bear this point in mind when considering the representations made by the Metropolitan Police. The Panel is advised that an appropriate way of proceeding may be to seek undertakings from the applicant although the Panel should bear in mind that there will be no immediate remedy open to the Council if such undertakings are not honoured by the applicant. Any breach of undertaking by the applicant could, however, be taken into account by the Panel on any subsequent application for a grant of a new permit or renewal of the existing permit by the applicant.

If the Panel decides to grant the permit, the permit will last for a minimum period of three years as laid down by the Gaming Act 1968. Whilst it is not open to the Panel to grant the permit for a lesser trial period the permit can be granted for such longer period as the Panel may determine.

### Objections to the Application

There has been an objection from a Mr John Rowland Burkitt and a copy of the objection appears in the Appendix. He will be represented at the hearing by Messrs Poppleston Allen, a firm of licensing solicitors. A copy of the letter from the Metropolitan Police also appears in the Appendix. Although it is not an objection as such, it is something the Panel should take into account. When doing so the Panel should refer back to Section 2 of this Report.

### The Application

The applicant has made a written submission in support of the application supported by documentation and this appears in the Appendix to this report.

### Options considered

This section is not applicable.

### Consultation

The Council has consulted with the Metropolitan Police and the result of that consultation is set out in the Appendix to this Report.

The Environmental Health Services Department have made no observations other than to confirm that in early March the premises was a clothing shop.

The relevant Ward Councillors will be sent a copy of the Agenda five days before the meeting.

### Financial Implications

There are none but please refer to the Costs of Proposals Section above.

### Legal Implications

In addition to determining the application in accordance with the legislation, members of the Panel must have also regard to the provisions of the Human Rights Act 1998. In addition, clear reasons for either the refusal to grant the permit or requesting undertakings from the applicant would have to be given to the applicant by the Licensing Panel.

### Equalities Impact

There are no implications.

### **Section 3: Supporting Information/ Background Documents**

The Appendix to this Report containing :-

1. Application for grant of permit.
2. Applicant's submissions dated 2<sup>nd</sup> March 2005 and 22<sup>nd</sup> March 2005 and supporting documentation. (The supporting document (blue booklet) is enclosed separately with the agenda and labelled accordingly.)
3. Submission from J.R. Burkitt and three Appendices. (enclosed separately with the agenda and labelled accordingly.)
4. Letter from the Metropolitan Police dated 26<sup>th</sup> November 2004.
5. List of Establishments within the London Borough of Harrow with Gaming Permits Current and Expired.

(Please note that due to the volume of paper Appendix 2 & 3 are being sent to the Panel Members only)