



# Haverling

LONDON BOROUGH

## LICENSING SUB-COMMITTEE JJ MOONS - GAMBLING ACT

### AGENDA

|                 |                               |  |
|-----------------|-------------------------------|--|
| <b>10.30 am</b> | <b>Monday<br/>11 May 2015</b> | <b>Council Chamber -<br/>Town Hall</b> |
|-----------------|-------------------------------|--|

Members 3: Quorum 2

**COUNCILLORS:**

Linda Van den Hende (Chairman)  
Viddy Persaud  
Jody Ganly

**For information about the meeting please contact:  
Taiwo Adeoye - 01708 433079  
taiwo.adeoye@onesource.co.uk**

## **Protocol for members of the public wishing to report on meetings of the London Borough of Havering**

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

**AGENDA ITEMS**

**1 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS**

(if any) - receive

**2 DISCLOSURE OF PECUNIARY INTERESTS**

Members are invited to disclose any pecuniary interest in any of the items on the agenda at this point of the meeting.

*Members may still disclose any pecuniary interest in an item at any time prior to the consideration of the matter.*

**3 CHAIRMAN'S ANNOUNCEMENT**

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

**4 REPORT OF THE CLERK (Pages 1 - 8)**

**5 REPORT OF THE LICENSING OFFICER (Pages 9 - 20)**

Application to vary a gaming machine permit at JJ Moons, 46-62 High Street Hornchurch, RM12 4UN made by JD Wetherspoon PLC under section 283/schedule 13 of the Gambling Act 2005.

**Andrew Beesley  
Committee Administration Manager**

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**LICENSING  
SUB-COMMITTEE**

**REPORT**

11 May 2015

|   |   |
|---|---|
| <b>Subject Heading:</b>                   | <b>Procedure for the Hearing: Gambling Act 2003</b>                         |
| <b>Report Author and contact details:</b> | <b>Taiwo Adeoye (01708) 433079<br/>e-mail: taiwo.adeoye@onesource.co.uk</b> |

Members are advised that, when considering application for a premises licence, the following options are available to them by virtue of the Licensing Act 2003, Part 3, section 35, paragraphs 3 and 4:

"Where relevant representations are made, the authority must

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such steps as it considers necessary for the promotion of the licensing objectives.

The steps are:

- a) modify the conditions of the licence
- b) reject the whole or part of the application

and for this purpose, the conditions of the licence are modified if any of them is altered or omitted or any new condition is added."

The Sub-Committee will also wish to note that, if none of these steps is required, the application must be granted.

Assuming that the Sub-Committee is satisfied that a hearing is required, then the following procedural steps are recommended. The Licensing Act 2003 (Premises licences and club premises certificates, Regulations 2005 will govern the arrangements for the hearing of the application now under consideration. This report accords with the requirements of that Act and the Regulations, and in particular Regulations 21-25 (procedure at the hearing).

## **1. Membership of the Sub-Committee:**

- 1.1 The Sub-Committee comprises three members of the Licensing Committee, with a quorum of two members. **Unless there are objections, in the absence of three members, the hearing shall proceed with the quorum of two.**
- 1.2 A members of the Licensing Committee will be excluded from hearing an application where he or she:
  - 1.2.1 has considered an application in respect of the premises in the previous 12 months as a Member of the Regulatory Services Committee; or
  - 1.2.2 is a Ward Councillor for the Ward in which the premises, subject to the application, are located; or
  - 1.2.3 is a Ward Councillor for a Ward which is likely to be affected by the application or;
  - 1.2.4 has a personal interest in the application.

## **2. Roles of other participants:**

- 2.1 The Legal Advisor is not a party to the hearing. The role of the Legal Advisor is to provide legal advice relating to the application and submissions.
- 2.2 The Clerk is not a party to the hearing. The role of the Clerk is to record the hearing and the decisions of the Sub-Committee, and ensure efficient administration

## **3. Representation validation meeting:**

- 3.1 Prior to this hearing, the Sub-Committee Chairman will have met the Legal Advisor and/or Clerk to determine whether further clarification is required of any issues contained in the application or any representation.
- 3.2 During this preliminary meeting no decision will have been made or discussion held regarding the substantive merits of the application or representations.

## **4. Location and facilities:**

- 4.1 All hearings will be heard at the Havering Town Hall unless otherwise directed.
- 4.2 Interpreters will be provided by the Council on request, provided notice is given at least five working days before the hearing.

## **5. Notification of attendance:**

- 5.1 The Chairman will enquire of the parties who is in attendance and the parties will indicate their names (and, where relevant, whom they represent). A register will be circulated before the commencement of the hearing on which the applicant, his/her advisers and companions and all interested parties (and/or their representatives) will be asked to record their attendance.

## **6. Procedural matters:**

- 6.1 Prior to the commencement of the hearing, the Chairman of the Sub-Committee will orally inform the parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused. Note this relates to people other than those attending on behalf of a party in the capacity as a representative of the party.
- 6.2 Prior to the commencement of the hearing the Chairman of the Sub-Committee will outline the procedure to be followed at the hearing. This will normally be as follows:

### **Introduction of the application:**

The Licensing officer will outline:

- details of the application and relevant representations received from the parties;
- relevant legislation ;
- relevant Licensing Policy; and
- the time limit in which the Council must reach a determination.

### **Documentary evidence:**

- Documentary or other information in support of applications, representations or notices should be provided to the Clerk of the Sub-Committee at least 7 clear working days before the hearing. If this information is produced at the hearing it will only be taken into account by the Sub-Committee if the Sub-Committee and all the parties consent to its submission. Permission to have this information included in the hearing should be requested at the beginning of the hearing before any oral submissions have been made.
- Statements made by people in support of a party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.

## **Representations:**

- The chairman will invite each of the parties at the hearing or their representative sequentially to address the Sub-Committee and call any person/s to whom permission has been granted to appear. Each party will be allowed a maximum period of 10 minutes in which to address the Sub-Committee and call persons on his/her behalf.
- This 10 minute period is where each party has the opportunity to orally address the Sub-Committee and clarify any points in which the Sub-Committee has sought clarification prior to the hearing. This 10 minute period should be uninterrupted unless a member of the Sub-Committee or Legal Advisor considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.
- Members of the Sub-Committee may ask questions of any party, at any time during the proceedings. Time taken in dealing with a Member's question will not be taken into account in determining the length of time available to the party in question to make their representation.

The sequence in which each of the parties will be invited to address the Sub-Committee will normally be in the order of:

- the Gambling Commission
- the Police
- the Fire Service
- the Local Planning Authority
- Environmental Health
- HM Revenue and Customs
- Childrens Social Services
- A licensing authority in whose area the premises is situated (that is, the Council itself and also any adjoining Council where premises straddle the boundaries between the two).

At the discretion of the Sub-Committee the above order may be varied.



### **Cross-Examination:**

Where witnesses have been permitted by the Sub-Committee to speak at the hearing on behalf of a party, permission must be sought from the Sub-Committee before another party can ask the witness questions. This process of questioning is normally referred to as cross-examination. The Sub-Committee will allow cross-examination only where it is necessary to assist it in considering the representations or application.

### **Relevance:**

Information submitted at the hearing must be relevant to the applications, representations, or notice and the promotion of the licensing objectives. The Chairman of the Sub-Committee is entitled to exclude any information it considers to be irrelevant whether presented in written or oral form. The 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**

## **7. Failure of parties to attend the hearing:**

- 7.1 If a party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing is held in the absence of a party, the Sub-Committee will still consider the application, representation or notice submitted by that party.

## **8. Adjournments and extension of time:**

- 8.1 The Sub-Committee may adjourn a hearing to a specified date or extend a notice period except where it must make a determination within certain time limits in the following specific applications:
- Applications for conversion of existing licences where the Sub-Committee must make a determination within 2 months of the application first being received. In default of a decision being made the application will be treated as being granted;

- Applications for variation of existing licences where the Sub-Committee must make a determination within 2 months of the application first being received. In default of a decision being made the application will be treated as being rejected;
- Applications for conversion of existing club certificates where the Sub-Committee must make a determination within 2 months of the application being first received. In default of a decision being made the application will be treated as being granted;
- Applications for variation of existing club certificates where the Sub-Committee must make a determination within 2 months of the application being first received. In default of a decision being made the application will be treated as being rejected;
- Applications made by holders of justices' licences for personal licences must be determined within 3 months of the application first being received. In default of a decision not being made within this period the application will be treated as being granted;
- Review of premises licences following closure orders where the Sub-committee must make a determination within 28 days of receiving notice of the closure order.

## **9. Sub-Committee's determination of the hearing:**

- 9.1 At the conclusion of the hearing the Sub-Committee will deliberate in private accompanied by the Clerk and the Legal Advisor who will be available to assist the Sub-Committee with any legal problems but will not participate in any decision making of the Sub-Committee.
- 9.2 The Sub-Committee will normally make its determination and announce its decision at the end of the hearing.
- 9.3 Where all parties have notified the Sub-Committee that a hearing is not required the Sub-Committee must make its determination within 10 working days of being given notice that the hearing is not required.

## **10. Power to exclude people from hearing:**

- 10.1 The public are entitled to attend the hearing as spectators. However, the Sub-Committee may exclude any person from the hearing including any person assisting or representing a party where:
  - it considers that the public interest would be best served by excluding the public or the individual person from the hearing; or

- that person is behaving in a disruptive manner. This may include a party who is seeking to be heard at the hearing. In the case where a party is to be excluded, the party may submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave the hearing.

#### **11. Recording of proceedings:**

- 11.1 A written record of the hearing will be produced and kept for 6 years from the date of the determination of the hearing.

#### **12. Power to vary procedure:**

- 12.1 The Sub-committee may depart from following any of the procedures set out in this document if it considers the departure to be necessary in order to consider an application, notice or representation.

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# LICENSING SUB-COMMITTEE

# REPORT

11 May 2015

Subject heading:

**JJ Moons**  
46-62 High Street HX RM12 4UN  
Variation to a gaming machine permit  
Paul Jones, Licensing Officer  
5<sup>th</sup> floor Mercury House  
x 2692

Report author and contact details:

This application for a variation to a gaming machine permit is made by JD Wetherspoon PLC under section 283/schedule 13 of the Gambling Act 2005. The application was received by Havering's Licensing Authority on 13<sup>th</sup> April 2015.

## Geographical location of the premises

*JJ Moons* is a long established public house licensed under the Licensing Act 2003 and located in Hornchurch town centre. A map of the area is attached for reference.

## Details of the application

The application to vary the site's gaming permit was made appropriately. It seeks to increase the number of gaming machines to be made available for use from the current limit of five to six.

## Comments and observations on the application

The site's premises licence issued under the Licensing Act 2003 permits the venue to open at 07:00 each day and close variously at 00:30, 01:00 and 01:30 the day following, comprising a total period of 127 hours per week during which the public have access to the premises and hence the gaming machines.

Currently gaming machine permit no. 7809 permits up to five category C machines to be made available for use on the premises during the hours it is open to the public as authorised by the attendant premises licence, i.e. for an average of 18 hours 14 minutes each day for each of the five machines.

## Summary

Havering's *Gambling Act 2003 Statement of Licensing Principles* states at Part C, item 2, administrative matters, that "*applications for five or more machines will be referred to a licensing sub-committee*". Based upon this principle the application has been placed before the licensing sub-committee for determination.

The full wording of Part C is included as an appendix to this report.

## **Appendix One**

### **Gambling Act 2003 Statement of Licensing Principles**

#### **Part C**

#### **2. (Alcohol) Licensed premises gaming machine permits (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

#### **Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant.”

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 harmed 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. 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 who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

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

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **Administrative matters**

Notifications and applications for two or three machines will generally be dealt with by licensing authority officers. Those for four or five machines will be determined by officers in consultation with the Chair of the Licensing (Licensing Act 2003) Committee, and applications for five or more machines will be referred to a licensing sub-committee.



**APPLICATION FOR THE NOTIFICATION / GRANT / VARIATION /  
TRANSFER OF A LICENSED PREMISES GAMING MACHINE PERMIT  
(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION  
ON THE PREMISES)**

*Please refer to guidance notes at the back of this form before completing*

To:  
London Borough of Havering  
Licensing Section  
Housing & Public Protection  
Mercury House  
Mercury Gardens  
Romford RM1 3SL



**Section A – Applicant Details**

1. Name of Applicant

**JD Wetherspoon Plc**

2. Date of Birth or Company registration No. as applicable

**1709784**

3. Address / registered office of applicant

**Wetherspoon House, Reeds Crescent, Watford, Hertfordshire WD24 4QL**

4. Telephone number (daytime) of applicant

**01923477902**

5. E-mail address of applicant

**jodell@jdwetherspoon.co.uk**

6. Name, address, telephone and e-mail of agent (e.g. solicitor) if submitted on behalf of the applicant

**SECTION B – Premises Details**

1. Name of premises

**JJ Moons ...**

2. Address of premises

**46-62 High Street, Hornchurch, RM12 4UN ...**

3. Telephone number of premises

**01708 478410**

4. E-mail address of premises (where available)?

5. Licensing Act 2003 Premises Licence Number

**001483**

**SECTION C – What do you want to do?**

Please indicate what you would like to do:

a) Notify licensing authority that you intend to provide up to a maximum total of 2 gaming machines of category C and / or D. *If you choose this option then please complete section F.*

b) Apply to the licensing authority for more than 2 gaming machines. *If you choose this option then please complete sections D and F.*

c) Apply to vary an existing permit. *If you choose this option then please complete sections D and F.*

d) Request that the licensing authority transfers an existing permit to yourself. *If you choose this option then please complete sections E and F.*

**SECTION D – Grant and variation requests**

1. How many gaming machines are you currently authorised to provide and how many do you wish to provide? Please complete the boxes in the table.

| Category machine | Number currently authorised to provide | Number wish to provide |
|------------------|--|------------------------|
| C                | ...5...                                | 6                      |
| D                | .....                                  | .....                  |
| Total            | .....                                  | ...6...                |

2. If you are authorised to provide more than 2 machines, please provide your existing permit, or provide reasons stating why it cannot be provided.

Existing permit provided

Reasons why existing permit cannot be provided

.....  
 .....

**Section E – Transfer request**

1. Name of person requesting the transfer

JD Wetherspoon plc

.....

2. Please confirm that an application to transfer the relevant Premises Licence under the Licensing Act 2003 has been:

Requested

Granted

3. Please provide your existing permit, or provide reasons stating why it cannot be provided.

Existing permit provided

Reasons why existing permit cannot be provided

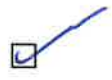
.....  
.....  
.....  
.....  
.....

**Section F – Fee and Signature(s)**

**1. I enclose**

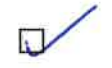
*In all cases*

- *the relevant fee*



**2. I confirm that**

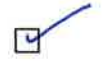
- *the premises where the machines are proposed to be located are licensed to supply alcohol for consumption on the premises and that there is a bar for serving alcohol to customers on the premises (without the requirement that alcohol is served only with food).*



- *I am aware of and will abide by the Gaming Machine Code of Practice for Alcohol Licensed Premise Permits and Permissions issued by the Gambling Commission.*



- *All staff will be trained as to the limits of any stakes and prizes and the requirements of the Act, Guidance and any appropriate codes of practice or conduct*



**Please note: It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.**

Dated 10/5/15

Signed by or on behalf of the applicant Jocelyn

Name (please print) FOR AND ON BEHALF OF JP WETHERSPOON PLC

\* If you wish to have a maximum of 2 gaming machines then the fee payable is £50. If you wish to have more than 2 gaming machines then the fee payable is £100 by an existing operator or £150 in all other cases.

To Vary the Permit £100  
To Transfer the Permit £25

**GUIDANCE NOTES: APPLICATION FOR THE NOTIFICATION / GRANT / VARIATION /  
TRANSFER OF A LICENSED PREMISES GAMING MACHINE PERMIT**  
(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)

1. This form is to be used for the NOTIFICATION of up to 2 gaming machines of categories C and / or D under Section 282 of the Gambling Act 2005, or the GRANT / VARIATION / TRANSFER of a gaming machine permit under Section 283 and Schedule 13 of the Gambling Act 2005.
2. All references to 'Premises Licence' refer to a Premises Licence under the Licensing Act 2003 authorising the sale of alcohol for consumption on the premises.
3. The premises must be licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises.
4. A 'Premises Licence holder' is a person holding a Premises Licence under the Licensing Act 2003.
5. The gaming machines must be located on these licensed premises and there must be a bar for serving alcohol to customers on the premises, without the requirement that alcohol is served only with food.
6. The permit's duration is indefinite as it is linked to the Premises Licence. There is a first annual fee payable 30 days after the grant of the permit and an annual fee payable after that before each anniversary of the date of issue of the permit. Failure to pay the annual fee may result in the cancellation of the permit. The annual fee is £50.
7. Two types of gaming machines can be located in alcohol licensed premises. These are:
  - Category C: Maximum stake = 50p / Maximum prize = £25
  - Category D: Maximum stake = 10p or 30p non-monetary / Maximum prize = £5 cash or £8 non-monetary
8. The holder of a licensed premises gaming machine permit must comply with any relevant Code of Practice issued by the Gambling Commission under Section 24 of the Gambling Act 2005. The Gaming Machine Code of Practice for Alcohol licensed premises permits and permissions is available via the Gambling Commission's website at: <http://www.gamblingcommission.gov.uk/> Should you be unclear as to the provisions of such a code of practice please contact your local licensing officer at the council address provided.
9. This licensing authority must notify the applicant of its grant / refusal of the application for a permit as soon as is reasonable practicable after that decision to grant / refuse has been made.

**Official Use Only**

Date of receipt: 13/04/15 .....

Signature and name of staff who received: PSS .....

Date of receipt of fee: 13/04/15 .....

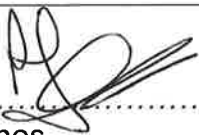
Signature and name of staff who received fee: PSS .....

Application accepted / ~~returned~~ (please delete as appropriate)

Date of premises licence (Licensing Act 2003) transfer (if applicable): N/A .....



**Licensed Premises Gaming Machine**  
**Permit granted under the**  
**Gambling Act 2005**


|   |
|---|
| <b>No: 007809</b>   |
| This notice confirms that: <b>J D Wetherspoon PLC</b>   |
| Has given notification pursuant to Section 283 of the Gambling Act 2005 of their intention to make available:<br><br><b>Number of Category C gaming machines authorised by this permit - 5</b><br><b>Number of Category D gaming machines authorised by this permit - 0</b><br><br>for use at the following premises:<br><br><b>J J Moons</b><br><b>46-62 High Street Hornchurch RM12 4UN</b> |
| Licensing Act 2003 Premises Licence number: <b>1483</b>   |
| Date on which this notice takes effect:<br><br><b>22<sup>nd</sup> July 2009</b>   |
| This notice is issued by:<br><br><b>The Licensing Authority</b><br><b>Housing &amp; Public Protection, London Borough of Havering</b><br><b>Mercury House Mercury Gardens Romford RM1 3SL</b>   |
| <br>..... Date: 15 <sup>th</sup> November 2011<br>Paul Jones<br>Licensing Officer  |
| <i>All alcohol licensed premises which provide gaming machines for use on the premises must comply with any relevant Code of Practice issued by the Gambling Commission under Section 24 Gambling Act 2005. (available at <a href="http://www.gamblingcommission.gov.uk">http://www.gamblingcommission.gov.uk</a>)</i>  |
| <b><i>This permit becomes void if the information ceases to be accurate.</i></b>  |






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JJ Moons N  
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 Scale: 1:1250  
 Date: 14 April 2015  
 Size: A4



 London Borough of Havering  
 Town Hall, Main Road, Romford, RM1 3BD  
 Tel: 01708 434343
 

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