



Subject:	Application for the Provisional Grant of an Amusement Permit – Elite Gaming, Little Vegas (NI) Ltd, 163 Stranmillis Road
Date:	17 August 2022
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext: 2435
Contact Officer:	Laura Hillis, Principal Building Control Surveyor, Ext: 2469

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues						
1.1	<p>To consider an application for the Provisional Grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (the Order).</p> <table><tr><td>Premises and Location</td><td>Ref. No.</td><td>Applicant</td></tr><tr><td>Elite Gaming 163 Stranmillis Road Belfast, BT9 5AJ</td><td>WK/202002652</td><td>Little Vegas (NI) Limited Unit 7&8 Ardboe Business Park Kilmascally Road, Dungannon, Co. Tyrone BT71 5BJ</td></tr></table>	Premises and Location	Ref. No.	Applicant	Elite Gaming 163 Stranmillis Road Belfast, BT9 5AJ	WK/202002652	Little Vegas (NI) Limited Unit 7&8 Ardboe Business Park Kilmascally Road, Dungannon, Co. Tyrone BT71 5BJ
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1.2	The Directors of Little Vegas (NI) Limited are Conor Francis Forbes, Aine Forbes, Ciara Anne Forbes and Shea Michael Forbes.						
1.3	A location map is attached as Appendix 1.						

1.4	Layout plans of the premises is included as Appendix 2.
2.0	Recommendations
2.1	<p>In considering the application for the Provisional Grant or Grant of an Amusement Permit, the Committee shall have regard to the Order and Belfast City Council's Amusement Permit Policy, as follows:</p> <ul style="list-style-type: none"> a) The fitness of the applicant to hold a Permit having regard to his character, reputation and financial standing, and b) The fitness of any other person by whom the business is to be carried on under the Permit would be managed, or for whose benefit that business would be carried on, c) In considering the fitness of a body corporate to hold an amusement permit, the Council shall also have regard to the character, reputation and financial standing of the directors of the body corporate and any other persons who have executive control of it and who have a financial interest in it, as if the permit were, or were proposed to be, held by them jointly d) Representation, if any, from the sub-divisional commander of the Police Service of Northern Ireland in whose sub-division the premises are situated, and e) Representation, if any, as a result of the public notices of advertisement. <p>You are then required to make a decision based on the following options set out under the Order.</p> <p>You must refuse the application unless satisfied that:</p> <ul style="list-style-type: none"> a) The applicant is a fit person to hold an Amusement Permit; and b) The applicant will not allow the business proposed to be carried on under the Amusement Permit to be managed by, or carried on for the benefit of, a person other than the applicant who would himself be refused the grant of an Amusement Permit. <p>Thereafter:-</p> <ul style="list-style-type: none"> 1) You may refuse the application after hearing any representations from third parties, or 2) You may grant the application, subject to the mandatory condition that the premises are not to be used for an unlawful purpose or as a resort of persons of known bad character, and 3) You may also grant the application subject to discretionary conditions outlined in the Order relating to the illumination of the premises, advertising of, and window displays on the premises and the display of information notices. <p>2.2 Should you be minded to refuse the application for the Provisional Grant of an Amusement Permit, or grant the Permit, subject to any discretionary conditions, you are required to advise the applicant of your intention to do so and you must afford the applicant the opportunity to make representations at a specified Licensing Committee meeting on the matter before making a final determination on the application.</p>

2.3	If, upon hearing the applicant, you refuse the application for the Provisional Grant of an Amusement Permit or decide to grant the application subject to discretionary conditions, the applicant may within 21 days from the date on which notice of the decision is served on him, appeal to the county court.
3.0	Background
	<p data-bbox="277 427 432 459"><u>Key Issues</u></p> <p data-bbox="165 495 1474 555">3.1 The Licensing Committee is responsible for determining all applications relating to the grant of Amusement Permits.</p> <p data-bbox="165 593 1474 689">3.2 Members are reminded that, at your meeting on 26 June 2013, you agreed to refuse the granting of an amusement permit to Little Vegas (NI) Ltd. for the ground and first floors of 163 Stranmillis Road.</p> <p data-bbox="165 728 1474 788">3.3 Subsequently, at your meeting on 21 August 2013 following the hearing of representations, you agreed to grant an amusement permit for the ground floor of the premises only.</p> <p data-bbox="165 826 1474 887">3.4 An amusement permit has been held for the ground floor of 163 Stranmillis Road since October 2013 and the premises has operated as a gaming centre ever since.</p> <p data-bbox="165 925 1474 1021">3.5 The applicant company, which is the current amusement permit holder, now wishes to also use the first floor of the premises which they have rented since 2013, as part of the amusement arcade, to develop the business and aid its recovery after the pandemic.</p> <p data-bbox="165 1059 1474 1155">3.6 As there is no mechanism within the Order to enable the variation of a permit, such as for the increase in the floor area being used for the amusement arcade, an application must be made for the Provisional Grant or Grant of an Amusement Permit.</p> <p data-bbox="277 1193 839 1225"><u>Provisional Grant of an Amusement Permit</u></p> <p data-bbox="165 1263 1474 1359">3.7 There is scope within the Order to make application for the provisional grant of an amusement permit in respect of premises which are about to be, or are in the course of being, constructed, extended or altered.</p> <p data-bbox="165 1397 1474 1532">3.8 If the Council is satisfied that the premises would, if completed in accordance with plans deposited, be such that it would grant the permit, the Council may grant a provisional amusement permit. However, a provisional permit does not authorise the use of gaming machines until the permit is declared final.</p> <p data-bbox="165 1570 1474 1666">3.9 The Order stipulates that the Council, upon application by the permit holder, must declare the permit final when it is satisfied that the premises have been completed in accordance with the plans deposited with the council.</p> <p data-bbox="165 1704 1474 1868">3.10 Should Members be of a mind to grant the permit provisionally, Committee is requested to consider delegating authority to the Director of Planning and Building Control in consultation with the City Solicitor to issue the permit once all necessary technical requirements relating to health, safety, welfare and amenity have been completed to the satisfaction of the Building Control Service.</p>

	<p><u>Application details</u></p> <p>3.11 The application is for a total of 50 gaming machines, giving an increase of 25 machines over the existing arcade; all of which are to pay out a maximum all cash prize of £25.00. Admission to the arcade is restricted to persons aged 18 or over.</p> <p>3.12 The proposed opening hours of the premises, as specified on the application, are:</p> <p style="padding-left: 40px;">Monday to Sunday: 10.00 am to 10.00 pm.</p> <p>3.13 The current normal opening hours are indicated on the premises as being Monday – Saturday 11am – late and Sunday 1pm to late, however, currently the amusement arcade is open on a trial basis from 3pm – 3am (as indicated at entrance and on the premises website).</p> <p><u>NIFRS</u></p> <p>3.14 The Northern Ireland Fire and Rescue Service has been consulted and confirmed that they have no objections to the application.</p> <p><u>COMPLAINTS</u></p> <p>3.15 The Service has received 3 complaints concerning the premises, one in each of 2014, 2017 and 2018 each of which were resolved to the Service’s satisfaction (window display/door left open, window visuals and canopy without Planning Permission, Noise from patrons outside and dog left outside)</p> <p>3.16 The Environmental Protection Unit / Night Time Noise Team have received 4 noise complaints, three in 2018 and one in 2019.</p> <p><u>Applicant</u></p> <p>3.17 A representative from Little Vegas (NI) Ltd will be available to discuss any matters relating to the grant of the permit at your meeting.</p> <p><u>Planning matters</u></p> <p>3.18 Planning permission for change of use of ground and first floor to an amusement arcade was granted on the 8 July 2012. As the amusement arcade has been open since 2013, they would have established use rights to operate as an amusement arcade under Planning Legislation.</p> <p>3.19 In an important Court of Appeal decision in June 1999, it was confirmed that the Council, in determining applications for Amusement Permits, may take into account planning considerations but should be slow to differ from the views of the Planning Authority.</p> <p>3.20 The Court also confirmed that the Council can take into account matters such as location, structure, character and impact on neighbours and the surrounding area.</p> <p>3.21 A copy of the planning permission is attached as Appendix 3.</p>
4.0	<p><u>Key issues</u></p>
	<p><u>Amusement Permit Policy</u></p>

4.1	<p>The Belfast City Council Amusement Permit Policy, ratified at Council on 1 May 2013, outlines those matters which may be taken into account in determining any amusement permit application and indicates that each application must be assessed on its own merits.</p> <p>All applications for the grant of an amusement permit are assessed against the Amusement Permit Policy.</p> <p>The key objectives of this policy are to:-</p> <ol style="list-style-type: none"> 1. Promote the retail vibrancy and regeneration of Belfast; 2. Enhance the tourism and cultural appeal of Belfast by protecting its image and built heritage; 3. Support and safeguard residential communities in Belfast; 4. Protect children and vulnerable persons from being harmed or exploited by gambling; 5. Respect the need to prevent gambling from being a source of crime and disorder. <p>The Policy consists of two components which are considered below:</p> <p><u>1. Legal requirements under the 1985 Order</u></p>
4.2	<p>Members must have regard to the legal requirements under the 1985 Order relating to:</p> <p>(a) The character, reputation and financial standing of the applicant:</p> <p>References and additional supporting information for those associated with the application are attached as Appendix 4 to the report for consideration.</p> <p>(b) The nature of the premises and activity proposed:</p> <p>To ensure that the nature of the premises proposed is suitable for this location Members may consider how the premises are illuminated, the form of advertising and window display, and how notices are displayed on the premises. Whilst the appearance of amusement arcades is considered a Planning matter, Members may still wish to be satisfied that the facade integrates with adjacent frontages.</p> <p>(c) Opinions of the Police:</p> <p>The Police Service of Northern Ireland has been consulted and confirmed that they have no objections to the application. A copy of the correspondence is attached as Appendix 5.</p> <p>(d) Submissions from the general public:</p> <p>No objections have been received as a result of the public notices placed in the three local newspapers.</p> <p><u>2. Assessment criteria for suitability of a location</u></p>
4.3	<p>There are five criteria set out in the Policy which should typically be considered when assessing the suitability of a location for an amusement arcade. These are detailed below as they relate to this application.</p> <p><u>Evaluation of the application site against criteria outlined in the Amusement Permit Policy</u></p>

The application premises are at the end unit of a block of two and a half storey buildings located on the Stranmillis Road, at its junction with Sandymount Street. The ground floor area of the premises is currently licenced for amusement by gaming machines, and the licensed area is now being proposed to be extended to include the first floor.

(a) Impact on the retail and viability of Belfast City:

The application premises are located within the development limit of Belfast as designated in the Belfast Urban Area Plan 2001 and the succeeding draft Belfast Metropolitan Area Plan 2015 (dBMAP). The application site is located outside the Retail Core of Belfast City Centre and, due largely to its corner location, it does not break up an otherwise continuous shopping frontage.

b) Cumulative build-up of amusement arcades in a particular location:

The Amusement Permit Policy seeks to avoid the cumulative build up or clustering of amusement arcades in a particular location in the interest of promoting the retail vibrancy and regeneration of Belfast. Notwithstanding the fact that this amusement centre already operates on the ground floor, there are no other amusement arcades on this commercial frontage nor in the general area. The nearest amusement arcades to it are located at Bradbury Place, Shaftesbury Square and Botanic Avenue. Therefore, it is not considered that this application will contribute to the cumulative build-up of amusement arcades at a given location.

c) Impact on the image and profile of Belfast:

The application premises have no neighbouring property which is a tourism asset nor are they located at a Gateway location into Belfast. Accordingly, it is not considered that the proposed extension would adversely affect the image and profile of Belfast.

(d) Proximity to residential use:

The Permit Policy states that permits will not be granted in areas that are (i) predominantly residential in character nor will they be granted in (ii) non-residential property that is immediately adjacent to residential property.

(i) - predominantly residential in character

While the Permit Policy identifies areas that are not predominantly residential in character, such as shopping and commercial frontages in the City Centre and on the arterial routes that feed into the City Centre, it is not always possible to define what makes an area predominantly residential in character. Sometimes a judgement has to be made in deciding if an area is predominantly residential or not. The location of this application represents an example where such a judgement has to be made.

As outlined above, the Policy states that predominantly residential areas exclude shopping and commercial areas located along Belfast's Arterial Routes. Arterial routes typically accommodate a mix of uses including shopping, commercial, social, leisure, community and other uses, including other licensed uses.

Stranmillis Road is not recognised as 1 of the 18 arterial routes into the City. Beyond the City Centre, all other amusement arcades in Belfast are located on arterial routes except for the application site and a site on the Boucher Road.

Notwithstanding the above, it has to be acknowledged that the application site comprises one of a mix of uses located on the main commercial road frontage within Stranmillis Village. There is a broad mix of uses here, including cafes, estate agents and retail uses.

In order to assist Members in establishing whether the area is predominantly residential or not it is perhaps useful to consider that Stranmillis Village encapsulates an area extending from Chlorine Gardens to Ridgeway Street. Within this area there are approximately 14 residential streets and a mix of commercial uses, plus a church.

Within the context of the above information and in response to the first part of this criterion, Members must decide whether Stranmillis Village is predominantly residential in character and whether this proposed use is acceptable for this area.

(ii) - non-residential property that is immediately adjacent to residential property

The nearest residential properties to the proposed amusement arcade are:

- No.161a Stranmillis Road - first & second floor apartment in adjoining property;
- No.1 Sandymount Street – approx. 5m away to the rear, separated by an alleyway; and
- No.165 Stranmillis Road (ground floor apartment) / 2a Sandymount Street (first and second floor apartment - 10m away on the opposite side of Sandymount Street.

Because the proposed amusement arcade will provide gaming machines on two levels, the first floor will be immediately adjacent to No.161a Stranmillis Road. This is a 4 bed apartment currently licensed as an HMO which would appear to be occupied, and the amenity of the occupants may be impacted by living adjacent to the gaming centre.

Under the Amusement Permit Policy, the use of the first floor as an amusement arcade 'immediately adjacent' to residential property is not considered acceptable. The continuous week-long hours of operation in this arcade (from 10am until late Mon-Sat, 11am – late Sunday – as indicated on the premises' front door) would impact on the residential amenity of existing and future occupants. Customers will be using the machines on the first floor into the early hours of the morning at a time when it is expected that residents in the adjacent flat (No.161a) may be sleeping. While it is acknowledged that there is scope to attenuate noise levels from gaming machine areas, the Permit Policy adopts a precautionary approach to proposals that immediately abut residential property and does not favour permitting them.

Conclusion on criterion (d) - Proximity to residential use

While it is open to interpretation whether this area is predominantly residential in character; it is clear that the first floor of the proposed premises is immediately adjacent to residential use and therefore this part of the application does not comply with this criterion in the Policy. However, Members are reminded that they can depart from the Policy where they consider it appropriate to do so.

Members should note that, at its meeting on 26 June 2013 for an earlier permit application on this site, the Committee stated that it was minded to refuse the application in respect of the entire premises, on grounds that included:

- The arcade would be situated in an area which was predominantly residential in character and its presence there would have a detrimental impact upon the amenity of the area, including residential amenity.

4.4	<ul style="list-style-type: none"> • The arcade would not be in keeping with existing businesses in the area. <p>Members are also reminded that subsequent to a further meeting in respect of the 2012/2013 application on 21 August 2013, the Committee agreed to approve the grant of an Amusement Permit in respect of the ground floor of the premises only.</p> <p>(e) Proximity to schools, youth centres and residential institutions for vulnerable people</p> <p>There are no schools, youth centres or residential institutions within 200m of the application site. The application would therefore comply with this criterion of the Policy.</p> <p><u>Conclusion</u></p> <p>Whilst the location of the permit application satisfies most criteria in the Amusement Permit Policy it is not considered to meet criteria (dii). This criterion relates to the proximity of proposed premises immediately adjacent to residential use. Having regard to the potential impact on residential amenity the Permit Policy advises a precautionary approach by discouraging the opening of amusement arcades in such locations.</p> <p>Members are reminded that, in addition to the above legal requirements and assessment criteria, the Committee may take into account any matter which is deemed relevant. Members may depart from the Policy where it is appropriate to do so, although it is envisaged that this should only happen in exceptional circumstances.</p> <p>A copy of the Council's Amusement Permit Policy is attached for your information and reference as Appendix 6.</p>
5.1	<p><u>Financial & Resource Implications</u></p> <p>Administration of Amusement Permit applications is included in current budgetary estimates.</p>
6.1	<p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>None.</p>
7.0	<p>Appendices – Documents Attached</p> <ul style="list-style-type: none"> • Appendix 1 – Location Map • Appendix 2 – Layout plan of the premises • Appendix 3 - Copy of the Planning Permission • Appendix 4– References • Appendix 5 – PSNI Correspondence • Appendix 6 – Belfast City Council's Amusement Permit Policy