



<b>Subject:</b>	<b>Application for the Grant of an Amusement Permit - Players, 22-23 Shaftesbury Square</b>
<b>Date:</b>	21st September, 2016
<b>Reporting Officer:</b>	Stephen Hewitt, Building Control Manager, ext. 2435
<b>Contact Officer:</b>	Patrick Cunningham, Assistant Building Control Manager, ext. 6446

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

<b>1.0</b>	<b>Purpose of Report/Summary of Main Issues</b>						
1.1	<p>The Committee is reminded that, at your meeting on 15th June, it considered an application for the grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 ('the 1985 Order').</p> <table><thead><tr><th><b>Premises and Location</b></th><th><b>Ref. No.</b></th><th><b>Applicant</b></th></tr></thead><tbody><tr><td>Players Ground Floor 22-23 Shaftesbury Square Belfast BT2 7DB</td><td>WK/20160593</td><td>Ms Kerry Boyle KB Shaft Ltd.</td></tr></tbody></table>	<b>Premises and Location</b>	<b>Ref. No.</b>	<b>Applicant</b>	Players Ground Floor 22-23 Shaftesbury Square Belfast BT2 7DB	WK/20160593	Ms Kerry Boyle KB Shaft Ltd.
<b>Premises and Location</b>	<b>Ref. No.</b>	<b>Applicant</b>					
Players Ground Floor 22-23 Shaftesbury Square Belfast BT2 7DB	WK/20160593	Ms Kerry Boyle KB Shaft Ltd.					
1.2	After consideration, the Committee, in its capacity as Licensing Authority, agreed that it was minded to refuse the application on the grounds that it fails to comply with the Council's Amusement Permit Policy.						
1.3	However, the Committee also noted that, in accordance with the Order, the applicant would be afforded the opportunity to make representation to the Committee regarding its decision at a future meeting.						
1.4	A copy of the minutes from the meeting on 15th June 2016 is attached at Appendix 1.						
<b>2.0</b>	<b>Recommendations</b>						

2.1	<p>The Committee is required to decide, on hearing from the applicant, whether to:</p> <ul style="list-style-type: none"> <li>• Approve the application for the grant an Amusement Permit, or</li> <li>• Refuse the application for the grant of an Amusement Permit.</li> </ul>
2.2	<p>If, subsequent to hearing the applicant, you refuse the application, or decide to grant the application subject to discretionary conditions, the applicant may appeal that decision to the County Court.</p>
3.0	<p><b>Main report</b></p>
	<p><b><u>Key Issues</u></b></p>
3.1	<p>The current policy, dictated by the governing Order, is that the Committee, in considering the application, must afford the applicant the opportunity to make representations at a specified Licensing Committee meeting on the matter before making a final determination of the application.</p>
	<p><b><u>Amusement Permit Policy</u></b></p>
3.2	<p>Members are reminded that the Council’s Amusement Permit Policy outlines those matters which may be taken into account in determining any application and indicates that each application must be assessed on its own merits.</p>
3.3	<p>In considering this application at your meeting in June two of the five criteria set out in the Policy, which should be considered when assessing the suitability of a location for an amusement arcade, were not met. These are detailed below:</p>
	<p><b>Cumulative build-up of amusement arcades in a particular location:</b></p>
3.4	<p>In addition to the existing Players arcade at No. 22 Shaftesbury Square, which forms part of this application, there is another amusement arcade operator on this commercial frontage, namely Oasis Gaming. It operates from a number of units located at 14 Shaftesbury Square and 1-7 Donegall Road. This amounts to the largest concentration of Amusement Centres found within a commercial block in Belfast.</p>
3.5	<p>In the desire to promote retailing and regeneration in the City Centre, as per the first key objective of the Amusement Permit Policy, the Council is keen to avoid a clustering of Amusement Centres at a given location. Accordingly, it restricts new openings to one per commercial frontage and one per shopping centre. It also restricts the ground floor extension of an existing establishment into an adjoining unit.</p>
3.6	<p>While the Council recognises that this commercial block currently has two vacant units (including the application site at No.23) the Council also acknowledges that it is a Gateway location with landmark development potential (see next criterion), an element of which could involve retailing.</p>
3.7	<p>Mindful of the above, therefore, this application to extend an existing Amusement Centre into a vacant shop unit runs counter to the cumulative build-up criterion. <b><i>Does not comply with this criterion.</i></b></p>
	<p><b>Impact on the image and profile of Belfast:</b></p>
3.8	<p>As noted above, the application premises are located at a key entrance junction (Gateway) to the City Centre, as identified in the BMAP 2015. This is one of 11 Gateway locations at the</p>

edge of Belfast City Centre which, as recognised in the Development Plan, presents the visitor with an initial impression that can influence their overall perception of the City. Accordingly, BMAP considers these locations suitable for landmark development capable of raising the profile of Belfast. Indeed, one of the four elements of BMAP's tourism strategy reads as follows:

*“enhancing the urban environment generally and, in particular, “first impression” points at major gateways, and in city and town centres.”*

3.9 Within this context, and in recognition of the Amusement Permit Policy's objective to enhance the appeal of Belfast by protecting its image, the Council considers the granting of Amusement Permits at ground floor level as inappropriate for this and other Gateway locations.

***Does not comply with this criterion.***

3.10 In considering any application it is the case that Members may take into account any matter which is deemed relevant. Members may also depart from the Policy where it is appropriate to do so, although it is envisaged that this should only happen in exceptional circumstances.

### **Planning Permission**

3.11 Members may recall that 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.

3.12 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. A copy of that decision is attached to this report at Appendix 4.

### **Applicant**

3.13 The applicant has been informed of the Committee's decision and has submitted further information in support of their application.

3.14 The applicant has submitted a supporting statement with additional information outlining the reasons why the application should be granted. These are summarised below.

- It is clear from the papers and records of the process that the grounds for refusing the application due to the cumulative build-up of amusement arcades in a particular location and the impact on the image and profile of Belfast have been fully considered and implemented by the relevant bodies.
- Referring to the Planning Case Officer's Report the applicant argues that, when the application was considered by the Belfast Planning Office, it considered and consulted all the available policy and material documents.
- The planning application was dealt with in a full and comprehensive way and that all relevant factors were taken into consideration by the Planning Authorities.
- The application meets all the requirements of the Planning Authority and fulfils the conditions contained within the Council's Amusement Permit Policy,
- The final conclusion drawn by the Planning Case Officer before granting planning approval would appear to suggest that the Planning Service would prefer that the maximum concentration of Arcades would be reached by way of this approval rather than by the granting of additional permits thus increasing the number of outlets.
- The applicant also argues that the application proposal is not in a retail frontage, listing a number of other businesses and outlets operating along the same frontage.

3.15	The applicant has also included a proposed floor plan and elevations to show how the extension of the business would look like alongside the existing retail frontage.
3.16	A copy of the applicant's submission is attached at Appendix 2.
3.17	The applicant and their representatives will be available to discuss any matters relating to the grant of the permit at your meeting.
<b><u>Comments on the Applicant's Submission</u></b>	
3.18	Whilst the Council should be slow to depart from the decision of the Planning Authority, the Ava Leisure case clearly establishes that the Council is entitled to look at planning considerations and can depart from the decision of the Planning Authority.
3.19	Relevant to considering whether to depart from the decision of the then Planning Authority may be the fact that the Council has assessed the application against its Permit Policy which was adopted in 2013, in addition to the Planning Authority's documents, which include DCAN 1 (1983), which must be considered dated as it is now over 30 years old. Importantly, the Council's Permit Policy has regard to both planning and non-planning considerations and its detailed preparation was extensively researched and consulted upon.
3.20	The applicant selects various extracts of the planner's report in an effort to demonstrate that all relevant issues were addressed by the Planning Authority. However, the same report demonstrates that concerns for the vitality and image of the City Centre were also considered important by planners – see Appendix 3.
3.21	This commercial frontage consists of a mix of uses and it is the case that retail units no longer form part of it. However, as noted in the planner's report, the build-up of gambling establishments may also affect other businesses, such as restaurants, which add to the vitality and viability of this part of the City Centre.
3.22	The planner's report would appear to suggest that, because the application was for an extension, the planning authority saw fit to allow it this time but urged caution thereafter. However, viewed in conjunction with the Gateway status of this location, which is suitable for landmark development, the application is contrary to the Amusement Permit Policy which aims to avoid increasing the proliferation of amusement centres in this area via the development of the adjoining vacant shop unit.
3.23	Members are advised that a number of planning applications have been granted in the last 12-15 months for this area including an application for 8 storey purpose built student accommodation at 78-86 Dublin Road and a 5 storey extension to the Benedict's Hotel complex on the corner of Bradbury Place and Donegall Road.
<b><u>Financial and Resource Implications</u></b>	
3.24	There are no financial or resource implications associated with this report.
<b><u>Equality or Good Relations Implications</u></b>	
3.25	There are no equality or good relations issues associated with this report.
<b>4.0</b>	<b>Documents Attached</b>

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|  | <ul style="list-style-type: none"><li>• Appendix 1 – Copy of the minutes from your meeting on the 15th June 2016</li><li>• Appendix 2 – Applicant’s submission</li><li>• Appendix 3 – Extract of Planner’s report</li><li>• Appendix 4 – <i>Re Ava Leisure’s Application</i> [1999] NI 2003</li></ul> |
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