



Subject:	Application for the Provisional Grant of an Amusement Permit for Oasis Gaming Centre, Wellington Place
Date:	14 th August, 2019
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
Contact Officer:	Moira Dougherty, Senior Building Control Surveyor, ext. 2458

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

1.0	Purpose of Report or Summary of Main Issues				
1.1	To consider an application from Oasis Retail Services Limited, for the provisional grant of an Amusement Permit under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.				
1.2	Members are reminded that the Licensing Committee, at its meeting on 19 th June 2019, agreed to defer consideration of the application until your next meeting to allow the Committee to review the additional information that had been published in Appendix 2 of the report.				
1.3	<table><thead><tr><th>Premises and Location</th><th>Applicant</th></tr></thead><tbody><tr><td>Oasis Gaming Centre 7 and area to the rear of 9 Wellington Place Belfast BT1 6GB</td><td>Oasis Retail Services Ltd. Oasis House, Mallusk Drive Newtownabbey</td></tr></tbody></table>	Premises and Location	Applicant	Oasis Gaming Centre 7 and area to the rear of 9 Wellington Place Belfast BT1 6GB	Oasis Retail Services Ltd. Oasis House, Mallusk Drive Newtownabbey
Premises and Location	Applicant				
Oasis Gaming Centre 7 and area to the rear of 9 Wellington Place Belfast BT1 6GB	Oasis Retail Services Ltd. Oasis House, Mallusk Drive Newtownabbey				
1.4	The Directors of Oasis Retail Services Limited are Mr Gerald Steinberg (Chairman) and Mr Martin Trimble (Managing Director).				
1.5	A location map is attached as Appendix 1.				

2.0	Recommendations
2.1	<p>The current policy, dictated by the governing Order, is that the Committee, in considering the application for the Provisional Grant of an Amusement Permit, shall have regard to:</p> <ol style="list-style-type: none"> a) The fitness of the applicant to hold a Permit having regard to his character, reputation and financial standing, 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) Representation, if any, from the sub-divisional commander of the Police Service of Northern Ireland in whose sub-division the premises are situated, and d) Representation, if any, as a result of the public notices of advertisement.
2.2	<p>You are then required to make a decision based on the following options set out under the Order. You must refuse the application unless satisfied that:</p> <ol 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.
2.3	<p>Thereafter:-</p> <ol 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
2.4	<p>In the case of premises, that have machines with the maximum cash prize of £25.00, where admission is restricted to persons aged 18 or over that –</p> <ul style="list-style-type: none"> • no persons under 18 are admitted to the premises; and • at any entrance to, and inside any such premises there are prominently displayed notices indicating that access to the premises is prohibited to persons aged under 18, and in addition <ol style="list-style-type: none"> 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.
2.5	<p>Should you be of a mind 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. In this case you 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>
2.6	<p>If, subsequent to 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 appeal that decision to the County Court.</p>

3.0	Main report
	<u>Key Issues</u>
3.1	Members are reminded that the Licensing Committee is responsible and has full delegated authority for determining all applications relating to the grant and provisional grant of Amusement Permits.
3.2	Members are advised that an application for the provisional grant of an amusement permit at 7 Wellington Place was refused by Council on the 1 st December 1999. Oasis Retail Services Limited appealed the Council decision which Deputy Judge Fitzpatrick overturned on 5 th October 2000 and the permit was issued. The permit has been renewed each year since then.
3.3	As there is no mechanism within the Order to cater for the extension to an existing premise, as is happening in this case, an application must be made for the provisional grant of an Amusement Permit for the ground floor of 7 and area to the rear of 9 Wellington Place.
3.4	Application to renew the existing Amusement Permit for 7 Wellington Place was received on 28 May 2019 and that premises continues to operate.
	<u>Applicant</u>
3.5	The applicant has requested to operate the proposed premises 7 days per week on Monday to Saturday from 9:00 am to midnight and on Sunday from 11:30 am to midnight with the actual opening hours being based upon demand. The current opening hours for the existing permit for 7 Wellington Place, as indicated on their application form, are 00.01 am to midnight, Monday to Sunday. However, the applicant has confirmed that the requested hours are those the current premises operate.
3.6	The permit is for a total of 100 gaming machines, all of which are to pay out a maximum all cash prize of £25.00. In the case of premises which have machines with a maximum cash prize of £25.00 admission is restricted to persons aged 18 or over.
3.7	The applicant has confirmed there will be no increase in the number of machines as the current Amusement Permit is for a total of 100 gaming machines. The actual number of machines during an inspection at No. 7 on the 19 July 2019 was 69 machines.
3.8	The applicant has submitted a statement in support of the application that is included as Appendix 2. This appendix includes the additional information that Members wished to review.
3.9	Mr Trimble and/or his representatives will be available to discuss any matters relating to the grant of the permit at your meeting.
	<u>PSNI</u>
3.10	The PSNI has been consulted and confirmed that they have no objections to the application. A copy of their correspondence is attached as Appendix 5.
	<u>NIFRS</u>
3.11	The Northern Ireland Fire and Rescue Service has been consulted in relation to the application and confirmed that they have no objections to the application.

Health, Safety, Welfare and Technical requirements

3.12 Officers from the Service have met with the applicant to discuss the application and status of the premise. The applicant has confirmed that a Building Regulations application will be made to the Service for the building work that will be required to create the new arcade layout.

Planning matters

3.13 A planning application was made to the Planning Service on the 20th December 2017 for demolition of a partition wall to amalgamate part of No. 9 Wellington Place into No.7 Wellington Place to extend the existing amusement/gaming centre use, conversion from retail use and the subdivision of No.9 Wellington Place to form a retail unit. This was granted on the 18th April 2018.

3.14 A copy of the planning permission is attached as Appendix 3.

3.15 The Committee may be aware 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.

3.16 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.

Amusement Permit Policy

3.17 Members are advised that the Council's Amusement Permit Policy was ratified at Council on 1st May 2013. It 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.

3.18 The key interrelated Policy objectives are to:

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.

3.19 The Policy consists of two components which are considered below:

1. Legal requirements under the 1985 Order

3.20 Members must have regard to the legal requirements under the 1985 Order relating to:

(a) The character, reputation and financial standing of the applicant:

3.21 References for those associated with the application are attached as Appendix 4 to the report for consideration.

(b) The nature of the premises and activity proposed:

3.22 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 façade integrates with adjacent frontages.

	(c) Opinions of the Police:
3.23	PSNI comments have been sought and they have confirmed they have no objection to the application. Their response is attached as Appendix 5.
	(d) Submissions from the general public:
3.24	No objections have been received as a result of the public notices placed in three local newspapers.
	<u>2. Assessment criteria for suitability of a location</u>
3.25	There are five criteria set out in the Policy that 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.
3.26	Before considering each of these criterion it should be noted at the outset that this is a grant application because of a proposed extension to the existing arcade to incorporate the adjacent vacant unit.
	(a) Retail vibrancy and viability of Belfast:
3.27	The application seeks to extend an existing amusement arcade at 7 Wellington Place into the rear ground floor of the adjoining property at 9 Wellington Place. The existing retail unit at 9 Wellington Place has been vacant for some time. Its retail area will be reduced in size as a consequence of this application but the front part of the building will be retained for retail use. The front part of 9 Wellington Place does not form part of this application and will be unaffected by the proposal, it will be approximately a third of the floor area of the original retail unit.
3.28	The adjoining unit on the other side of the application site is in office use. The application would not therefore result in the break-up of a continuous shopping front.
3.29	The Strategic Planning Policy Statement ('SPPS') for Northern Ireland was published by DfI in September 2015. It is regional policy that the SPPS is a statement of DfI policy on important planning matters that should be addressed across Northern Ireland. It was agreed by the Northern Ireland Executive and to be in general conformity with the Regional Development Strategy 2035.
3.30	Sustainable development is at the heart of the SPPS. Whilst there are a variety of expressions of the term sustainable development one of the more widely accepted definitions is to be found under Resolution 42/187 of the United Nations Assembly which defines sustainable development as ' <i>meeting the needs of the present without compromising the ability of future generations to meet their own needs.</i> '
3.31	In SPPS there is a town centre-first approach to the location of "main town centre uses", a term which includes leisure and entertainment uses. Amusement arcades or gaming centres are not specifically mentioned in the SPPS as being a leisure or entertainment use, though it is acknowledged that they could be regarded as leisure uses. The latter notwithstanding, an amusement arcade is still considered a sui generis use, i.e. of its own kind, that is subject to specific planning and licensing (permit) control.
3.32	The Council's Amusement Permit Policy resonates with the SPPS in that it recognises that town centres offer opportunities to accommodate leisure uses such as amusement arcades. However, unlike the generalised contents of the SPPS, the Amusement Permit Policy further

	<p>qualifies that there is a presumption against locating them in the Retail Core of the City Centre in the desire to encourage retailing here.</p>
3.33	<p>The application premises are situated within the Belfast City Centre Retail Core, as defined in the Belfast Metropolitan Area Plan 2015 (dBMAP). Whilst it is the extension of an existing amusement arcade premises it must be considered a new application for the purpose of the Betting, Gaming, Lotteries and Amusements (NI) Order 1985.</p>
3.34	<p>The Policy indicates that, outside of renewal applications, there is a presumption against granting permits for amusement arcades in the Retail Core unless they are related to a major, retail led, mixed use development or an upper storey development. Viewed in this context it could be considered that the application runs contrary to the Council's Amusement Permit Policy.</p>
3.35	<p>However, Committee must have regard to the fact that the unit has been vacant for a considerable time and that this proposal will retain the existing shopping frontage at 9 Wellington Place which is likely to have limited impact on the retail vibrancy of the Retail Core. The Planning Service attached significant weight to the retention of this frontage when approving the application.</p>
	<p>(b) Cumulative build-up of amusement arcades in a particular location:</p>
3.36	<p>In the desire to promote retailing in the City Centre the Council is keen to avoid a clustering of amusement arcades at a given location. The nearest amusement arcade to the application site on Wellington Place is Onassis Amusements at 17-19 Queen Street. This is located circa 200m walking distance away and on a different commercial frontage. The next nearest is Funtime Amusements at 91 Castle Street, which is located approximately 350m walking distance away. Due to the separation distances between amusement arcades in this area it is considered that the proposal does not contribute to cumulative build up.</p>
3.37	<p>However, this is contrary to a provision in the Council's Amusement Permit Policy where there is a restriction on allowing a ground floor extension or merger of an existing establishment into an adjoining unit. This provision is intended to prevent clustering in a particular location caused by the gradual accretion of amusement arcades, via extensions, along the length of a commercial frontage.</p>
3.38	<p>In that context, consideration must be given to the fact that the extension of the amusement arcade is partial and will not affect the front of the adjoining property (9 Wellington Place). The proposed extension to the rear of the adjoining unit will not therefore result in the loss of a retail façade along the Wellington Place commercial frontage.</p>
3.39	<p>In assessing cumulative build up the Committee is required to more broadly consider the issue of the proliferation of permits and the effect of the same on the character and amenity of area rather than simply whether there is more than one amusement arcade in a commercial frontage.</p>
3.40	<p>A map of nearby licensed premises and existing or proposed amusement arcades in the City Centre is attached to this report at Appendix 6.</p>
	<p>(c) Impact on the image and profile of Belfast:</p>
3.41	<p>The application premises have no neighbouring property which is a tourism asset, nor are they located at a Gateway location.</p>

	<p>(d) Proximity to residential use:</p> <p>3.42 The application premises are located in the main commercial frontage of Wellington Place, where there are a mix of uses including restaurants and retail units. There are no residential properties immediately adjacent to the premises. The nearest residential property is the purpose built student accommodation on the corner of Wellington Place and Queen Street.</p> <p>(e) Proximity to schools, youth centres, and residential institutions for vulnerable people:</p> <p>3.43 There are no schools, youth centres, or residential institutions for vulnerable people within 200m of the application premises.</p> <p><u>Conclusion</u></p> <p>3.44 Whilst the application premises may not strictly comply with all assessment criteria for the suitability of the location as laid down in the Council's Amusement Permit Policy, the Committee can depart from those criteria where it is considered appropriate to do so. Any non-compliance in this regard is finely balanced due to the fact that this is a partial extension into the rear of an adjoining unit at No.9 Wellington Place. This partial extension ensures that the front part of this adjoining unit will be retained for retail purposes within the Retail Core. This appreciably mitigates Council's concerns for loss of retail vibrancy and cumulative build-up of amusement arcades.</p> <p>3.45 Planning Service was made aware of this when determining the planning application but determined that the application was acceptable in planning policy terms.</p> <p><u>Financial & Resource Implications</u></p> <p>3.46 There are no financial or resource implications associated with this report.</p> <p><u>Equality or Good Relations Implications</u></p> <p>3.47 There are no equality or good relations issues associated with this report.</p>
4.0	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – Location map • Appendix 2 – Oasis supporting statement • Appendix 3 – Copy of the planning permission • Appendix 4 – References • Appendix 5 – PSNI comments • Appendix 6 – Map showing land uses and existing permits in City Centre area