

# MIDDLESBROUGH COUNCIL

**Ed Chicken**

Head of Community Protection Service

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**TO: CHAIR AND MEMBERS OF  
THE LICENSING COMMITTEE  
FOR 26 JULY 2004**

## **ITEM FOR DECISION**

### **GAMING ACT 1968 SECTION 34(5E) SCHEDULE 9, AMUSEMENT WITH PRIZES MACHINES**

**APPLICATION FOR GRANT OF AN AMUSEMENT WITH PRIZES PERMIT -  
TRAFALGAR LEISURE LIMITED, 12 STATION ROAD, EAST BOLDON, NE36 0LO**

**PREMISES TO BE LICENSED - 34 LINTHORPE ROAD, MIDDLESBROUGH**

#### **1.0 PURPOSE OF REPORT**

1.1 For Members to consider an application under Section 34 (5E) of the Gaming Act 1968 from Trafalgar Leisure Limited for an Amusement with Prizes Permit in respect of an amusement arcade at 34 Linthorpe Road, Middlesbrough.

#### **2.0 RECOMMENDATIONS**

2.1 Members consider this application in the light of the objection received from Mincoffs Solicitors on behalf of Leisure Promotions Limited.

#### **3.0 FINANCIAL IMPLICATIONS**

3.1 The applicant Company has paid the statutory fee of £250 in respect of the application.

#### 4.0 BACKGROUND INFORMATION

4.1 The licensing of premises for specific use as amusement is governed by the Gaming Act 1968. Section 34 (5E) of the Act permits all cash gaming by machines with a maximum payout of £25.

4.2 Schedule 9, at paragraph 10b of the 1968 Act requires, in the case of grants for Section 34 (5E) permits that:-

- i) any machine is located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access otherwise than by means of an entrance designed for the purpose.
- ii) that only persons aged 18 or over are admitted to an area of the premises in which any such machine is located.
- iii) that access to an area of the premises in which any such machine is located is supervised.
- iv) that any area in the premises in which any such machine is located is so arranged as to permit all parts of it to be observed.
- v) that at the entrance to and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons aged under 18

4.3 Permits are granted for a statutory 3 year period.

4.4 On 11 November 1992 the Council's Licensing Sub Committee considered a report detailing a survey into amusement centres in the Town Centre. This survey had been undertaken at the request of the Public Protection Committee to establish the level of amusement centres in Middlesbrough Town Centre and whether there were sufficient such premises. At that time there were 11 such premises and the survey concluded that this was sufficient.

4.5 Members of that Committee noted the findings of the survey and determined that guidelines be issued to future applicants advising that the Council considers 11 premises to be appropriate for the Town Centre.

4.6 At the time of writing this report there are 9 premises licensed in the Town Centre area.

#### 5.0 INFORMATION

5.1 On 9 June 2004 an application for a Section 34 (5E) permit was received from Trafalgar Leisure Limited for an unlimited number of machines at premises in Linthorpe Road, Middlesbrough which have been a public house.

5.2 A full consultation exercise has been undertaken in respect of this application. Planning consent had been obtained for use as an amusement arcade. No objections have been received from the Police or any technical consultee. However one objection has been received from Mincoffs Solicitors on behalf of Leisure Promotions Limited (see Appendix 1) based on the saturation of licences within the

Middlesbrough area and the location of these new proposed premises in relation to premises operated by Leisure Promotions.

- 5.3 The Company representative, Mr Sam Hamadi was interviewed by the Principal Licensing Officer on 13 July 2004. He advised that Trafalgar Leisure had been operating since February 1999, predominantly in the Newcastle area. The Company operates several nightclubs in the City centre and 18 months ago opened an amusement arcade in Newcastle. It is the intention of the Company to bring the manager, Kath Dawson, from Newcastle to Middlesbrough to operate this new business venture, should this application be successful. Mr Hamadi advised that Ms Dawson is experienced in the leisure industry and also in the amusement arcade business. He advised that he is the Company's project manager and he is responsible for the initiation and start up of new businesses which are then devolved to a manager.
- 5.4 He stated that planning consent had been granted for change of use of the premises (from public house) on 8 June 2004 and that listed building consent had also been obtained. He advised that the ground floor of the premises are to be the public area with approximately 120-130 machines, of which approximately 80 will be the Section 34 (5E) machines. There will be two refreshment stations providing complimentary tea and coffee and light snacks such as chocolate and crisps. Toilet provision includes full disabled access.
- 5.5 He advised that the Company operate a strict admission policy whereby no one under 18 years of age can gain entrance unless accompanied by an adult. In the event of an adult bringing someone under 18 onto the premises they will both be limited to the under 18's area and anyone under 18 will not be allowed to play the machines. This rule will be enforced by staff and initially security staff will police the doors to ensure this policy is made clear from the start.
- 5.6 The area nearest to the entrance will contain the small payment machines and those machines which are legally limited to players over 18 years will be located behind this area. There will be clear boundary markings for the over 18's area with prominent signage and routine floor walking checks. The inside of the premises will also be covered with digital CCTV, with images being stored for 30 days. Although the manager is to be brought in from Newcastle it is anticipated that there will be approximately 5 staff on duty at any one time and that the remainder will be recruited locally.
- 5.7 The objection to this application was fully discussed. Mr Hamandi's response was that this was no more than a commercial objection from a local competitor which was designed to remove any competition. It is his view that market forces would determine the level of saturation.
- 5.8 The applicant Company, who has received a copy of this report will attend Committee to answer any questions which Members may wish to ask. The objectors have also been invited to attend and make known their views.

6.0 CONCLUSION

6.1 Members are reminded of the Council's guidelines agreed in 1992, which indicate that 11 amusement centre premises would be deemed sufficient within the Town Centre area and that currently 9 are licensed. Members are further advised that an objection based on commercial grounds does not have any status in legislation. Members are therefore invited to determine this application on the information contained within this report and any further information which may come to light at Committee.

Contact Officer: Pam Ross  
Principal Licensing Officer  
Ext. 2141

Ed Chicken  
Head of Community Protection  
26 July 2004

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**COMMITTEE RESULTS FOR  
ADMIN PURPOSES ONLY**

**GRANT/RENEW/REFUSE/REVOKE/  
SUSPEND/RETAIN/WARNING**

**REASONS:-**

**COMMITTEE DATE 26 JULY 2004**