

Title of Report: Appeal by Oasis Retail Services Limited in relation to an Amusement Permit Application	Officer Presenting: Lead Legal Services Officer Author: Lead Legal Services Officer
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1 Purpose of Report/Recommendations

- 1.1 To advise Members of the decision of the court in respect of the Appeal by Oasis Retail Services Limited against the decision of Derry City and Strabane District Council to refuse an application for an Amusement Permit under Article 108(1)(ca) of the Betting, Gaming, Lotteries and Amusements (NI) Order 1985 ("the 1985 Order") in respect of premises at Unit 23 Richmond Centre, Londonderry.

2 Background

- 2.1 As agreed at the February Assurance, Audit and Risk Committee (AAR20/18), this report has also been presented to the Assurance, Audit and Risk Committee on 8 March 2018.
- 2.2 Members will recall that at the meeting of the Health and Community Committee on 24th February 2016 Derry City and Strabane District Council refused an application by Oasis Retail Services Limited for an Amusement Permit under Article 108(1) of the 1985 Order in respect of premises at Unit 23 Richmond Centre, Derry.
- 2.3 The refusal was on four grounds:-
- 2.3.1 The location of the proposed arcade was unsuitable and did not fit with the City Centre Development Plan.
 - 2.3.2 The proposed arcade was in close proximity to an area where youth congregated.
 - 2.3.3 The proposed arcade was in close proximity to a similar development at Bank Place.
 - 2.2.4 There were adequate facilities within the City Centre locality.
- 2.4 Oasis was given the opportunity to make representations before a final decision was taken and made these at the Committee hearing on 10th March 2016.

- 2.5 The application was refused and no additional refusal reasons were given.
- 2.6 Oasis exercised their right to appeal against the refusal of the grant of the Amusement Permit to the County Court under Article 119 of the 1985 Order.
- 2.7 The Appeal was heard at the County Court sitting at Bishop Street, Derry in May 2017 with Judgment being handed down by Her Honour Judge McCaffrey on 23rd June 2017.

3 Key Issues

3.1 In relation to the grounds of refusal the Judge found against Council as follows:-

- 3.1.1 On 11th February 2016 a Provisional Grant of an Amusement Permit in respect of premises at 1 -2 Bank Place had been granted by the Council under delegated authority. The application from Oasis Retail Services Limited had been received by the Council on 10th December 2015 and the application in respect of the premises at 1-2 Bank Place had been received on 11th December 2015.
- 3.1.2 Oasis Retail Services Limited had been refused Planning Permission in respect of the premises by the Department and it appealed to the Planning Appeals Commission. In the interim the Planning function had transferred to the Council and the Council had contested the appeal at the Planning Appeals Commission. The Planning Appeals Commission had been satisfied that Planning Permission for the Amusement Arcade would not adversely affect the character of Shipquay Street.
- 3.1.3 The Judge accepted the case made by Oasis Retail Services Limited that its policy and practice in running an adult business with strict adherence to the age limit would address any concerns in relation to this being an area where youths congregated and where vulnerable people might be in the vicinity.
- 3.1.4 Whilst there was no statutory requirement consider the adequacy of the current provision or to demonstrate need the Judge noted that there were premises in Bridgend County Donegal which attracted a considerable percentage of their trade from Northern Ireland customers and it would be preferable if that business remained in local businesses on this side of the border.

- 3.2 Finally the Judge concluded that she considered that the scale of the proposed operation and the high standard of premises to be offered by Oasis Retail Services Limited would provide a different type of offering to that currently available and consequently granted the appeal subject to a condition that it would be limited to a maximum of 70 gambling machines.
- 3.3 A copy of the Judgment is at Appendix 1.
- 3.4 Oasis Retail Services Limited has been granted a Provisional Licence for Amusement Permit on 19th October 2017.

4 Financial, Equality, Legal, HR, Improvement and other Implications

- 4.1 There was no award of costs made in respect of the application and there are no equality or HR implications.
- 4.2 As this is a County Court Judgment it does not establish any binding precedent, however, the terms of the Judgment are instructive.

5 Recommendations

- 5.1 Members are asked to note the above information.

Background Papers

Appendix 1: Judgment

Mins Ref: AAR20/18