



**Draft Amusement
Permit Policy**

For public consultation



Introduction

To operate an amusement arcade a person must apply to us for an amusement permit. We are directly empowered to grant or refuse amusement permits in Belfast under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (as amended) (also known as the 1985 Order).

This means that we issue amusement permits to premises, commonly known as amusement arcades, that have 'amusement with prizes machines' (normally known as gaming machines). Except in the case of renewals, applicants are normally required to first obtain planning permission for an amusement arcade before applying for a new amusement permit.

What are gaming machines and amusement arcades?

A gaming machine (or amusement with prizes machine) means any machine which is used for playing a game of chance by the insertion of money into it with the aim of winning money. There are lower prize gaming machines and higher prize gaming machines. Use of the higher prize gaming machines is restricted to adults only (i.e. persons aged 18 or over). In Belfast, admittance to amusement arcades is typically restricted to adults as many premises operate higher prize machines only.

An amusement arcade is defined as premises which are being used wholly or mainly for amusement by gaming machines. We deem this to be the case when there is at least one more gaming machine than the total number of all other types of machines.

Registered Clubs, bookmaking offices, commercial bingo clubs, public houses and licensed hotels are not required to have an amusement permit in order to have gaming machines, though other aspects of gambling legislation in NI may apply to gaming machines in these establishments.

Aim and scope of policy –why do we need an amusement permit policy?

The overall aim of the amusement permit policy is to serve as a guide for Elected Members, council officers, applicants and the wider public on applications for amusement permits in the Belfast City Council area.

This policy has been developed for the purpose of promoting consistency in the determination of applications and with a view to informing applicants and other interested parties of those matters which may be taken into account in the decision-making process. Notwithstanding those considerations expressly referred to in this policy, the Council will take into account any relevant matter and may depart from this policy when it deems it appropriate to do so.

The need for this policy was highlighted by the outcomes of previous Court Judgments on amusement permit applications. These indicated a requirement for the Council to make clear its position on the issues to be considered when deciding to grant or refuse an amusement permit application under the 1985 Order. Some of these issues relate to planning considerations, which, according to Court rulings, the Council is entitled to take into account. The planning considerations contained in this amusement permit policy

largely pertain to the five criteria used to assess the suitability of the proposed location for an amusement arcade.

While the policy is primarily intended to serve as a guide for assessing applications for amusement permits by the Council's Licensing Committee, its interrelationship with planning considerations implies that the policy should also be material to decision-making on related applications for planning permission by the Council's Town Planning Committee. This is because applicants are usually required (except in the case of renewing amusement permits) to first obtain planning permission for the proposed amusement arcade from DOE (NI) Planning before applying for an amusement permit from us.

At present, the Council is consulted on planning applications and DOE (NI) Planning makes the final decision on all planning applications, including those for amusement arcades. However, this arrangement is set to change and the Council will become the statutory planning authority for applications of this type in 2015. Until this transfer of power takes place, this amusement permit policy will be a material consideration in determining planning applications by DOE (NI) Planning. With this in mind, the policy is deliberately framed to be broadly consistent with regional planning guidance on amusement arcades. At the same time, it is tailored to take into account the particular detailed planning considerations that apply to the Belfast City Council area, as stated in the Development Plan and other relevant documents.

It is not the intention of this permit policy to rewrite regional planning policy for amusement arcades. Instead, in the interest of transparency, it is intended to clarify how the Council will interpret and apply regional planning policy within its own Council area. Through this policy the Council aims to promote consistency in decision-making between the Council and DOE (NI) Planning and thereby reduce the likelihood of conflicts arising on issues that are common to both permit applications and related planning applications.

In exercising our duties and responsibilities under this policy, we have been, and will continue to be mindful of our obligations under the Human Rights Act 1998. We will pay particular attention to the implications of the policy for a person's human rights, to ensure that all subsequent actions are lawful, reasonable and proportionate to the given situation.

It is anticipated that the policy will be reviewed every three years so that it can remain abreast of the dynamics of the gambling industry and related legislation.

Objectives of the Policy

The key objectives of this policy can be largely linked to our overarching strategic goal of improving the quality of life for present and future generations in Belfast by making it a better place in which to live, work, visit and invest. Against this background and in light of the research carried out, the interrelated key 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.

The first two policy objectives are in line with our key strategic objectives to support the local economy, especially through the development and promotion of tourism. The third objective ties in with the 'support people, communities and neighbourhoods' aspect of our Investment Programme. The final two objectives are consistent with the core objectives of the GB Gambling Act 2005, which are currently being considered by DSD (NI) to form part of the review of gambling legislation in NI.

Assessing amusement permit applications

To meet these policy objectives when determining amusement permit applications we will **assess each application on its merits** and will:

1. have regard to our legal requirements under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (as amended); and will
2. assess the suitability of the location for a proposed amusement arcade based on a number of assessment criteria. These have been prepared within the context of the key objectives of the policy, and in light of all research findings, including the legal and planning policy review and a comparative analysis with Great Britain (GB) and the Republic of Ireland (ROI).

We will consider both these components of policy when deciding on **new** amusement permit applications. When determining an application for **renewal** of an amusement permit we will primarily focus on the legal requirements, and will only consider our assessment criteria in very exceptional circumstances.

Prior to granting or renewing any amusement permit the Council will have regard to comments from any relevant statutory agency in relation to fire or other safety matters.

Legal requirements under the 1985 Order (as amended)

In accordance with the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (as amended) we will have regard to the following statutory requirements:

- 1. The character, reputation and financial standing of the applicant;**
- 2. The nature of the premises and activity proposed;**
- 3. Opinion of the Police; and**
- 4. Submissions from the general public.**

Each of these requirements is outlined below.

1. The character, reputation and financial standing of the applicant

In considering the fitness of an applicant to hold an amusement permit, we will take into account:

- *the character and reputation of the applicant, as corroborated by references from impartial and reliable sources, including the Police; and*
- *the financial standing of the applicant, as verified by independent credit check organisations and financial references.*

Justification and clarification

Taking on board the prevailing statutory desire by government to make gambling fair and crime-free, this amusement permit policy aims to ensure that players are protected from illegal or unscrupulous operators.

Under the 1985 Order we are statutorily obliged to consider the fitness of a person who is, or proposes to be, the occupier of the premises. Accordingly, we will consider the character, reputation and financial standing of the applicant and any person appointed to manage the business. The applicant can be an individual, a company or a partnership. In the case of the latter two, the fitness of the corporate organisation is relevant, together with the character of the directors and people with executive control.

As well as taking on board the considered views of the Police (see No.3 below) we will request that the reputation of the applicant is endorsed by references from sources such as bank managers, accountants and elected representatives. In order to testify to their financial standing, applicants will be asked to provide a credit report from an independent credit rating agency, together with financial references.

2. The nature of the premises proposed

We will aim to ensure that the nature of the premises proposed is appropriate for the location in question. This will involve careful consideration of the following matters: how premises are illuminated; the form of advertising and window display; and how notices are displayed on the premises.

Guidance in respect of the above 3 considerations can be found in Appendix A to this policy.

Justification and clarification

As far as amusement arcades and gaming machines are concerned, legislation exists to regulate rather than promote this form of gambling. We are keen to ensure that the premises do not openly encourage gambling.

3. Opinion of the Police

We will attach significant weight to the opinion of Police when assessing an application, in relation their views on the character and reputation of the applicant, as well as the location of the premises.

Justification and clarification

Under the 1985 Order the applicant must send a copy of their amusement permit application to the Police. It is important we get the views of the Police, not only in respect of the character of the applicant but also the suitability of the area for an amusement arcade. For example, it may be relevant to the assessment of the application if the Police indicates that the vicinity of the proposed amusement centre has been associated with abnormal levels of antisocial behaviour, or has been the subject of police intervention in the past. To this end, we will request that the Police complete a short questionnaire on the applicant and premises, a sample of which is contained in Appendix B.

4. Submissions from the general public

We will take into account the number and nature of submissions received from the general public when determining an amusement permit application, particularly those from persons or representatives of persons in neighbouring properties.

Justification and clarification

Within seven days of making an amusement permit application the applicant must place amusement permit advertisements in three out of four newspapers named by the Council. This

public advertisement allows objections and submissions to be made by any person. All applications for amusement permits are referred to the Council's Licensing Committee and they take into account all submissions received, whether they are made in opposition to an amusement permit, in support of a permit, or submitted as observations only.

Bearing in mind the key objectives of this amusement permit policy, particularly those relating to support for retailing and residential communities, we will carefully consider submissions we receive from neighbouring properties and will consider them whether they are made by businesses, residents or any other interested party.

Belfast City Council's criteria for assessing the suitability of a location

We have five criteria which will be examined by us when assessing the suitability of a location for a proposed amusement arcade:

- 1. Impact on the retail vitality and viability of Belfast City;**
- 2. Cumulative build-up of amusement arcades in a particular location;**
- 3. Impact on the image and profile of Belfast;**
- 4. Proximity to residential use; and**
- 5. Proximity to schools, youth centres and residential institutions for vulnerable people.**

Clarifications:

Before we look at these in detail, we must first make a number of clarifications on the use of these assessment criteria:

- While this policy strives to introduce greater certainty into decision-making on amusement permit applications, its contents do not prejudice the statutory power of the Council, under Article 111 of the 1985 Order, to consider any ground it deems reasonable to refuse to grant an amusement permit. This clause in the legislation allows us the flexibility to take into account a change in circumstances that may influence the Amusement Permit Policy. An example of this could be a significant change in planning policy, which the assessment criteria must recognise.
- While it is acknowledged that the existing use of the proposed premises will be a material consideration in the assessment of an amusement permit application, we may not accord substantial weight to the fact that the property (unless it was previously an amusement arcade) is vacant or used for non-shopping purposes, for example, a fast-food outlet or licensed business. In other words, while every application will be carefully considered the Council will not allow the fact that the property is vacant to overshadow all other considerations to the detriment of reaching a balanced decision.

An amusement arcade accommodates a particular type of gambling activity and should not be generalised as another form of non-shopping use or licensed activity. It is a sui generis development (of its own kind) that has its own legal regulations to satisfy under the 1985 Order.

Notwithstanding the above clarifications, it must be reiterated that each application will be assessed on its own merits.

Each criterion is now explained.

1. Impact on the retail vitality and viability of Belfast City

While an application for an amusement permit in Belfast City Centre will be assessed on its merits it will only be granted in the retail core of Belfast City Centre if it is:

- *A renewal of an existing amusement permit; or*
- *Part of a major, retail-led mixed use development; or*
- *An upper storey development.*

We will not grant an amusement permit in any part of the Belfast City Council area where an amusement arcade would break up an otherwise continuous shopping frontage.

Justification and clarification

In line with our objective to promote the retail vibrancy and regeneration of Belfast we are keen to promote pedestrian flows in Belfast's busiest shopping streets by supporting retailers and retail development.

In stark contrast to shop units, amusement arcades are commercial leisure venues which do not have a general appeal for visitors and only have a small customer base. Only 6 per cent of people surveyed in NI in 2010 stated that they used fruit or slot machines. Viewed in this context, the opening of amusement arcades in the retail core of Belfast can be considered incompatible with our aim to promote shopping in the main shopping streets of Belfast City Centre. The extent of the retail core within Belfast City Centre is shown in Appendix C.

This restrictive policy for the retail core is in accordance with retail planning policy outlined in the DOE's Planning Policy Statement 5 on Retailing and Town Centres (PPS 5, paragraph 25).

Our aim to maintain a continuous shopping frontage in all parts of Belfast is in keeping with DOE (NI) Planning's 'Development Control Advice Note 1' (DCAN 1). An application for an amusement arcade is deemed to break up a continuous shopping frontage where it proposes to replace a shop unit that is located between two adjacent shop units. This may also apply to situations when one or more of the shops are vacant at the time. For the purposes of this policy a shop unit can be defined as one belonging to Class A1 of the Planning (Use Classes) Order (Northern Ireland) 2004. A copy of this use class is contained in Appendix D.

2. Cumulative build-up of amusement arcades in a particular location

We will limit the number of amusement permits we grant to one per shopping or commercial frontage and one per shopping centre. Where this number of permits has already been granted, or even exceeded, no more amusement permits will be considered.

Under this criterion, 2 or more amusement arcades in adjacent ground-floor units will not be allowed (except for those already existing), including the ground-floor extension or merger of an existing establishment into an adjoining unit.

Justification and clarification

Because we want to promote retailing we are anxious to avoid a cumulative build-up or clustering of amusement arcades in a particular location. This approach is also supported by the research finding that there are twice as many machines per person in Belfast than in GB as a whole.

Unlike betting offices and bingo clubs, where licensing is a matter for the courts in Northern Ireland, there is no legal requirement by the applicant to demonstrate that a demand exists for an amusement arcade in a particular area. However, DOE (NI) Planning does consider the cumulative impact of these forms of developments. In its' Planning Policy Statement 5 on Retailing and Town Centres (PPS 5) it highlights the requirement to avoid a '*clustering*' of non-retail uses in Retail Cores and District Centres. Likewise, DOE (NI) Planning's Development Control Advice Note 1 on Amusement Arcades (DCAN 1) refers to the need to '*take into account the effect of larger numbers on the character of a neighbourhood*'.

For the purposes of this amusement permit policy, a shopping or commercial frontage can be defined as a group of mainly ground-floor businesses that shares a continuous frontage and which is usually separated from other frontages by a different road or street name. A shopping centre refers to a group of retail and non-retail uses that is usually anchored by a large store. Beyond Belfast City Centre shopping centres are referred to as District Centres and are located off Arterial Routes.

3. Impact on the image and profile of Belfast

Amusement permits will not be granted at locations that are regarded as tourism assets, and at Gateway locations in Belfast City Centre.

Justification and clarification

In keeping with one of the key objectives of this amusement permit policy, namely to enhance the tourism and cultural appeal of Belfast by protecting its image and built heritage, we will not grant amusement permits at locations regarded as tourism assets and at key entrance junctions (Gateways) into Belfast City Centre.

We will protect those areas, buildings and their settings (if appropriate) that are inherently linked to the image and tourist profile of the City. As far as this policy is concerned, the setting of a tourist asset relates to the neighbouring property either side of its main entrance, whether or not this neighbouring property is adjacent to it, or separated from it by a road or street.

A tourism asset is defined as any feature associated with the built or natural environment that is of intrinsic interest to tourists. Most of the tourism assets in Belfast are listed buildings. These often feature in the historical database of the Northern Ireland Environment Agency and as tourist attractions in Visitor Guides for Belfast. If you need clarification on what is considered a tourist asset you can contact us.

Under this criterion, we will also protect the Gateway locations at the edge of Belfast City Centre which are considered suitable for landmark development capable of raising the profile of Belfast. These Gateway locations are key entrance points into the City Centre, where visitors form their first overall impression of the city centre. Viewed in this context, it is considered that granting amusement permits (or further permits) at ground-floor level is inappropriate for these locations. If you need clarification on what is considered a Gateway location you can contact us.

4. Proximity to residential use

Amusement permits will not be granted in areas that are predominantly residential in character, including local centres located within these areas. They will also not be granted in non-residential property that is immediately adjacent to residential property.

Justification and clarification

Bearing in mind that one of our corporate objectives is to 'support people, communities and neighbourhoods' and that this is also a key objective of this policy, we will seek to prevent amusement arcades opening in predominantly residential areas.

Residential areas commonly have a local centre. PPS 5 describes a local centre as:

'Small groupings of shops, typically comprising a general grocery store, a sub-post office, occasionally a pharmacy and other small shops of a local nature.'

Clearly, a local centre in a predominantly residential area should provide local shops and services that cater for the daily needs of the wider community, as opposed to non-essential, gambling-based activity in an amusement arcade, which has a limited appeal for a small number of people.

This criterion is also consistent with DOE (NI) planning policy guidance, namely DCAN 1, which considers that amusement arcades *'are not normally acceptable near residential property'*.

Areas that are predominantly residential in character obviously exclude extensive industrial or business areas which are clearly distinct from housing. Predominantly residential areas also exclude all designated shopping and commercial areas located along Belfast's Arterial Routes.

5. Proximity to schools, youth centres and residential institutions for vulnerable people

We will not grant amusement permits in locations near schools, youth centres and residential institutions for vulnerable people, including children's care homes and hostels for the homeless.

Justification and clarification

The protection of children and vulnerable people from gambling is a key objective of this amusement permit policy. This is in keeping with the prevailing gambling legislation in GB, where councils have embodied it as a core objective of their licensing policies, and in line with similar legislative proposals by the Department for Social Development (Northern Ireland) and the Department of Justice & Law Reform in the Republic of Ireland.

While we acknowledge that amusement arcades restrict admittance to underage persons and that the 1985 Order does not specifically refer to the need to consider the effects on persons attending schools or youth clubs, we believe that a precautionary approach is required for applications made near locations where children, young persons and vulnerable people meet. Accordingly, we will not allow amusement arcades within 200m of a school, youth centre or a residential institution. This distance has regard to regional planning policy guidance, which recognises it as *'a location within easy walking distance'*.

Conclusion

Overall, this amusement permit policy is intended to strike a balance between safeguarding the concerns of the wider public on the one hand and respecting an applicant's desire to obtain an amusement permit on the other. From an operational perspective, it is hoped that the policy will help to clarify our position on applications and allow for greater coherence and consistency in decision-making.

Appendix A

Guidance for premises (as per 1985 Order & amendments thereof)

In terms of the actual premises used wholly or mainly for the provision of amusements by means of gaming machines, Belfast City Council has powers, under Article 111, paragraph 6b of the 1985 Order, to specify:

- how premises are illuminated;
- the form of advertising and window display; and
- how notices are displayed on the premises.

Addressing each of the above matters in turn, the following points should be noted by applicants:

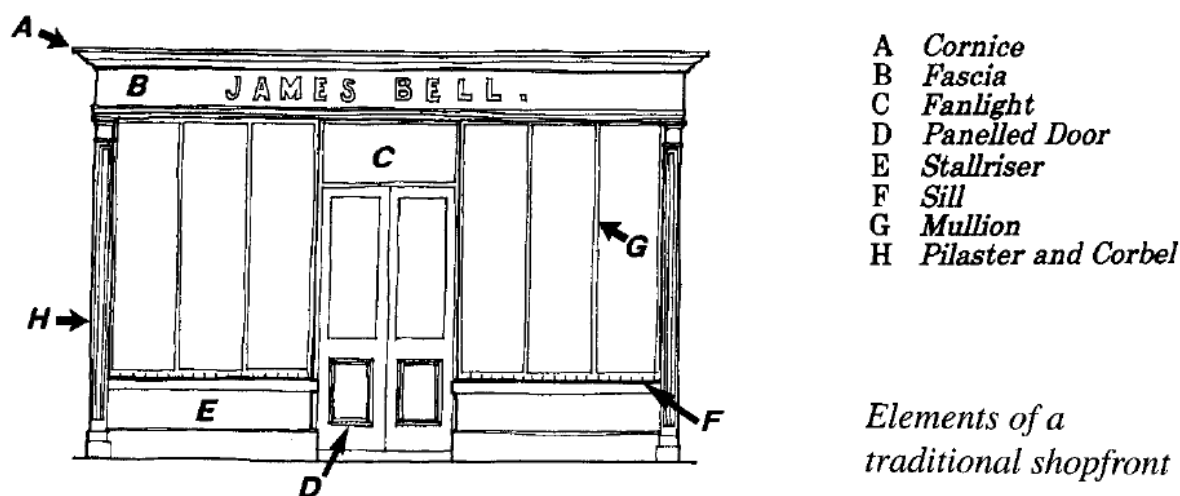
- **Illumination** – as a general rule illumination should be kept to a minimum and no floodlighting of premises will be permitted, save for trough/spot lighting over the fascia.
- **Form of advertising and window displays** – the name of the business should be clearly advertised in the window. Legislation in Northern Ireland restricts access to higher prize machines by people under eighteen. Notification of this restriction should be clearly displayed on the exterior of the premises and ideally a proof-of-age scheme should be implemented by the operator. The windows should be designed so as to shield the interior (and machines) from public view. This could involve the use of fixed screening inside the windows, opaque fenestration or a combination of both. Projecting signs that advertise the presence of the establishment are not considered suitable for amusement arcades.
- **Notices on premises** - advertising in amusement arcades should be legal, socially responsible and not construed to exploit or specifically target the young and other vulnerable persons through style, presentation or content. Interior notices indicating that access is prohibited to persons aged under eighteen should be prominently displayed. Notices containing helpline numbers for organisations such as

GamCare, Gamblers Anonymous, Gambleaware, etc. should also be displayed within the premises. Applicants may also wish to consider providing information leaflets/helpline numbers near gaming machines.

Guidance on the content of Notices is available in the rule book known as the Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (the Code).

The Committee of Advertising Practice (CAP) is the self-regulatory body that creates and enforces this Code. The latest version of the CAP CODE is available online at <http://www. www.cap.org.uk/Advertising-Codes/Non-broadcast-HTML.aspx>

While the Council is legally entitled to regulate advertising and window displays on amusement arcades, this requirement has to be balanced against a wider planning desire to avoid the creation of an unsightly shop-front that could undermine the visual amenity of the streetscape. Therefore, given the limitations on advertising, some policies in Britain cite the need for gaming centres to respect elements of the traditional shop-front design (see illustration below).



Reference to the traditional shop-front design is intended to alert applicants to the key features of a retail façade, the incorporation of which can help promote the integration of amusement arcades into commercial locations. It is submitted as information only and is not intended to be read as a rigid template for the frontage design of premises.

Appendix B

Police Questionnaire

The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (as amended)

In accordance with the above legislation, relating to Amusement Permits, the Police Service of Northern Ireland (PSNI) is duly requested to give its considered opinion in respect of the fitness of the applicant to hold an amusement permit and the location of the application premises.

Applicant details:

Premises' details:

Application for Amusement Permit (including renewal of Permits)				
Question	Y	N	Don't Know	If 'Y' please provide details including dates
Has the applicant ever been convicted of a criminal offence?				
Has the Police ever received complaints about the applicant or premises?				
Has the Police ever been called to intervene in disturbances in the vicinity of the premises?				
Has the Police ever objected to an amusement permit application for these premises in the past, or to an application made by the same applicant elsewhere?				
	Y	N	Don't Know	If 'N' please give reasons
Overall, does the Police have any objections to this applicant being granted an amusement permit?				
Overall, in the opinion of the Police, is the location of the premises considered suitable for an amusement arcade? For e.g. its suitability in terms of its proximity to residential institutions that are used for bail/probation purposes				

Appendix C: Belfast City Centre Retail Core



Appendix D: Definition of a shop

STATUTORY RULES OF NORTHERN IRELAND

2004 No. 458

PLANNING

Planning (Use Classes) Order (Northern Ireland) 2004

Made - - - - - *2nd November 2004*

Coming into operation *29th November 2004*

SCHEDULE

PART A

SHOPPING AND FINANCIAL & PROFESSIONAL SERVICES

Class A1: Shops

Use for all or any of the following purposes –

- (a) for the retail sale of goods other than hot food;
- (b) as a post office;
- (c) for the sale of tickets or as a travel agency;
- (d) for hairdressing;
- (e) for the display of goods for retail sale;
- (f) for the hiring out of domestic or personal goods or articles; or
- (g) for the reception of goods including clothes or fabrics to be washed, cleaned or repaired either on or off the premises

where the sale, display or service is to visiting members of the public.

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Additional copies available on request or from our webpage:
www.belfastcity.gov.uk/buildingcontrol/amusement-permits.asp

Copies are also available in alternative formats on request
from our Building Control Service.