

This report will be made public on 9 April 2018



Report No: **DCL/17/44**

To: Licensing Sub-Committee
Date: 17 April 2018
Status: Non-Executive Decision
Head of service: Ben Geering

SUBJECT: AN APPLICATION FOR A VARIATION OF THE PREMISES LICENCE FOR THE CONVENIENCE STORE AT SHELL FOLKESTONE, 334-336 CHERITON ROAD, FOLKESTONE, KENT CT19 4DP

SUMMARY: This report sets out the facts for the Licensing Committee to consider in determining a variation of a premise licence. The licensing committee is the Licensing Authority acting in a role previously taken by the Magistrates Court. It is, therefore, not appropriate for officers to make additional comments other than in the capacity as a Responsible Authority under the legislation of the Licensing Act 2003. Therefore there are no comments from Legal, Finance or other officers included in this report

REASONS FOR DETERMINATION:

The Committee is obliged to determine the application with a view of promoting the 4 licensing objectives. In making its decision the Committee must also have regard to all the representations made and the evidence it hears. The Committee is obliged to have regard to the national guidance and the council's own licensing policy.

DETERMINATION:

The Licensing Sub-Committee is asked to:

- 1. Note the contents of Report DCL/17/44**
- 2. Determine the application. The options for determining the application are set out in section 5 below.**

1. BACKGROUND

- 1.1 The Licensing Act 2003 provides that the sale or supply of alcohol on and off the premise and other licensable activities must be authorised by a premise licence.
- 1.2 The premises has a current premise licence. The premise licence covers 24 hour opening with the sale of alcohol limited to 6am to midnight every day. The site combines the sale of motor vehicle fuel with that of a convenience store. Building works to refurbish the site have just been completed.
- 1.3 The application seeks to extend the sale of alcohol to 24 hours and to extend the opening hours for late night refreshment from 11pm to 5am. (No licence is required to sell hot food between 5am and 11pm.) A copy of the application is enclosed as Appendix 1.
- 1.4 The premises are situated to the north of Cheriton Road between Surrenden Road and Coombe Road. Cheriton Road is a major highway with a mixture of retail, commercial and domestic properties. To the west is St Andrews Methodist Church, to the rear is Morehall Avenue which is entirely residential and to the east is an office and another church. Opposite is a fast food premises and residential properties.
- 1.5 There are no planning restrictions on the opening hours.
- 1.6 Current licence details are enclosed in Appendix 2.

2. APPLICATION

- 2.1 An application has been made for a variation of the premises licence by the licence holder Motor Fuel Limited.
- 2.2 The application is in relation to 334-336 Cheriton Road, Folkestone, Kent.
- 2.3 The application is to extend the hours for the sale of alcohol to cover 24 hours and for late night refreshment between 11pm and 5pm every day.
- 2.4 The applicant is mindful of their responsibilities and has received copies of the objections (see Appendix 3).
- 2.5 The Licensing Act 2003 did not initially permit the sale of alcohol from service stations and motorway services. Case law, however, has allowed Licensing Authorities to issue premise licences to service stations which have a convenience store. The convenience store must be the major activity. This is based on sales. Any calculation has to compare the sale of fuel, before tax, with the sale of groceries. There

is no question, in this case, that the sale of groceries is the major activity.

3. OBSERVATIONS

3.1 The Committee must take such steps, as it considers necessary for the promotion of the licensing objectives:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- The protection of children from harm

3.2 The Shepway DC Licensing Policy is available at:

http://www.shepway.gov.uk/media/4022/Licensing-Policy-Statement-2016-2021/pdf/Shepway_District_Council_-_Licensing_Policy_Statement_2016-2021.pdf

3.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available at:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

4. RELEVANT REPRESENTATIONS

4.1 This hearing has been required by the Licensing Act 2003 because representation has been made by independent representatives. No representation has been made by any Responsible Authority.

Responsible Authority	Comments
Kent Police	None
Environmental Health (Pollution)	None
Environmental Health (Commercial)	None
Kent Fire and Rescue	None
Planning	None
Child Protection Agency	None

4.2 6 Representations have been received from other interested parties by the Licensing Authority regarding the application. These objections can be found in Appendix 3.

5. OPTIONS

5.1 The licensing sub-committee has the following options:

- a) Grant the Licence variation as requested.
- b) Grant the Licence variation but add conditions.
- c) Reject whole or part of the application.

- 5.2 The committee is asked to note that it may not add conditions or reject the whole or part of the application merely because it considers it desirable to do so. The committee must only consider evidence that relates to the 4 licensing objectives. Any conditions must promote the licensing objectives.

6. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

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No published documents have been relied upon in the preparation of the report.

Appendices:

Appendix 1 Application (page 7)

Appendix 2 Current licensing hours and conditions. (page 25)

Appendix 3 Relevant Representations (page 29)

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