

Agenda Item No: 4

Report No: 109/17

Report Title: Application to Vary a Premises Licence. Chailey Service Station, North Chailey Crossroads, Chailey BN8 4DH

Report To: Licensing Sub Committee

Date: 26 July 2017

Ward(s) Affected: Chailey and Wivelsfield

Report By: Ian Fitzpatrick, Director of Service Delivery

Contact Officer(s)-

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1 Purpose of Report

- 1.1** To consider the Application to Vary the Premises Licence submitted under the Licensing Act 2003

2 The Application

- 2.2 Applicant:** Motor Fuel Limited, Building 2 Abbey View, Everard Close, St Albans, Herts AL1 2QU

- 3 Type of application:** Application to vary a Premises Licence granted under the Licensing Act 2003. **Appendix 1**

- 4 Premises:** Chailey Service Station, North Chailey Crossroads, Chailey, East Sussex BN8 4DH

5 Nature of proposed variation:

- 5.1** To extend the hours for the sale of alcohol, to add the provision of late night refreshment and to deposit modified plans **Appendix 2**
- 5.2** Sale of alcohol: The premises is already licensed for Monday to Saturday 6am to 11pm and Sunday's 7am to 11pm. The applicant is applying to extend this to a 24 hour service
- 5.3** Late night refreshment: The applicant is applying to add this to their current Premises Licence from 11pm to 5am (the following morning) and has limited this to the supply of hot drinks only (no hot food).

6. Steps to promote the Licensing Objectives

6.1 The applicant has offered the following conditions, additional to those currently imposed on their Premises licence (**Appendix 3**), to promote the four licensing objectives.

6.2 General

6.2.1 Late night refreshment will be limited to hot drinks only.

6.2.1 Access to the shop will be at the discretion of the cashier from 11pm to 5.30am.

7. Additional conditions agreed with Sussex Police

7.1 Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System, (PSDB publication 09/05) operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.

CCTV footage will be stored for a minimum of 28 days

The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.

The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.

Subject to Data Protection guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk for the police without difficulty or delay and without charge to Sussex Police. Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

7.2 All staff will be trained in licensing law and the responsible sale of alcohol prior to commencement of selling alcohol; a staff training manual will be kept and maintained at the premises and made available for inspection by police licensing officers and local authority officers on request to either management or the DPS. Refresher training will be given to all staff at least every six months by the DPS or an accredited trainer.

7.3 An incident book will be kept and maintained at the premises and made available for inspection by police, police licensing officers and local authority officers on request. This book shall solely be used for the purpose of recording incidents.

- 7.4 A refusals register will be kept and maintained at the premises and made available for inspection by police, police licensing officers and local authority officers on request.
- 7.5 All staff shall have written authorisations from the Designated Premises Supervisor to permit them to sell alcohol.
- 7.6 A 'Challenge 25' policy shall be in operation at the premises and staff will be suitably trained to implement this policy. The only form of ID that will be accepted are a passport, a photographic driving licence or a Proof of Age card bearing the 'PASS' hologram.

8. Background Information

- 8.1 The premises this application relates to is a convenience store attached to a Petrol forecourt. The site is located on the outskirts of Chailey, within a residential area on a main road.
 - 8.2 In 2005 Murco Petroleum applied to convert their Justices 'Off' Licence (issued under the Licensing Act 1964) to the new Licensing Act 2003.
 - 8.3 In October 2014 the Premises Licence was transferred to St Albans Operating Company Limited who applied (in February 2015) to extend their alcohol hours from 7am to 11pm Sunday's, and 6am to 11pm Monday through Saturday. This application was approved without objection.
 - 8.4 The Premises Licence was then transferred to the current owner, Motor Fuel Group Ltd in July 2015.
 - 8.5 Section 176 of the Licensing Act 2003 prohibits the sale or supply of alcohol from premises which are used primarily as a garage, or are part of premises used primarily as a garage.
 - 8.6 If a licence is granted in respect of a premises and the primary use of that premises subsequently changes (for example, the primary use becomes that of a garage rather than a shop) it would no longer be legal to sell alcohol on that premises.
 - 8.7 The applicant has been requested by the Local Authority to provide evidence that primary use of the premises is not that of a garage. This is a separate process to the variation application being considered and should have no bearing on the decision made at this Hearing.
- 9 Photographs of the service station and surrounding premises are attached at **Appendix 4**
10. The application has been advertised in line with The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, Part 4.

11. Representation received from Responsible Authorities:

<u>Police:</u>	Response received – additional conditions agreed
<u>Environmental Health:</u>	No comment
<u>Fire Officer:</u>	No comment
<u>ESCC – Child Protection:</u>	No comment.
<u>Trading Standards:</u>	No comment.
<u>Health & Safety:</u>	No comment.
<u>Planning:</u>	No comment.
<u>Public Health.</u>	No comment.
<u>Immigration:</u>	No comment

12. Representation received from others

- 12.1** There have been 19 objectors making representation regarding this application from members of the public and Chailey Parish Council. These have been submitted on the grounds that this variation application will undermine the licensing objectives of public nuisance, crime and disorder, public safety, and the protection of children from harm.

Appendix 5

13. Mediation

- 13.1** On the basis of the representations received and the opinions expressed, it is considered unlikely that this application will be successfully mediated before the Sub Committee Hearing.

14. Licensing Committee Considerations

- 14.1** In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- The steps that are appropriate to promote the licensing objectives
 - The representations presented by all the parties
 - The Home Office Guidance issued under Section 182 of the Licensing Act 2003
 - The Lewes District Council Statement of Licensing Policy
 - Any other relevant legislation

15. Licensing Policy Considerations:

- 15.1** Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. It covers the licensable activities for the retail sale of alcohol and the provision of late night refreshment which are the subject of this application.

Appendix 6

15.2 Section 6.2 of the Lewes District Council Statement of Licensing Policy relates to premises wholly or partly used as Shops, Stores and Supermarkets.

15.3 The aims of the Policy are to secure the safety and amenity of residential communities, help to ensure a sustainable environment, and to provide regulation of the cultural/entertainment industry and to promote the four Licensing Objectives of the Act. Namely:

- Prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- Protection of children from harm

15.4 The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.

15.5 In each case that arises following representations the Policy states the Council will:

- Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of local residents to peace and quiet.
- Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
- Consider restricting the hours of trading only in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.

16 National Guidance:

16.1 Relevant sections relating to the Home Office Guidance issued under section 182 of the Licensing Act are attached.

16.2 These sections cover:

- Hearings **Appendix 7**
- The Licensing Objectives **Appendix 8**
- Conditions **Appendix 9**

17. Other Relevant Legislation

17.1 The Licensing Sub Committee should be mindful of requirements and responsibilities placed on them by other legislation. These include, but are not limited to, having due regard to the Equality Act 2010 and the Human Rights Act 1998.

18. Options

When considering this application for a Premises Licence, the following options are available to the Sub Committee:

- Decide to grant the licence in the same terms as it was applied for.
- Decide that it is necessary to refuse to issue the licence.
- Decide to grant the licence, but to modify the conditions.
- Exclude from the scope of the licence a licensable activity.

19. Rights of Appeal

19.1 Under Section 181 and Schedule 5 of the Act, there is a right of appeal to the Magistrates' Court in respect of applications to vary licences. This right of appeal is open to both the applicant and to any person who has made relevant representation.

20. Recommendation

20.1 Members are requested to determine the variation application made by Motor Fuel Limited, and Members are requested to give reasons for their determination.

21. Financial Appraisal

There are no financial implications that are not already contained within the Council's 2017/18 revenue budget.

22. Legal Implications

This report has been considered by the Council's Legal Section (IKEN 6445-MW)

23. Appendices

- 1 Application to vary a Premises Licence and associated plan
- 2 Modified Plans
- 3 Current Premises Licence with plans
- 4 Photographs and aerial view of the service station and surrounding area
- 5 E-mails of objection to application
- 6 Lewes District Council Statement of Licensing Policy
- 7 Home Office Guidance: Hearings
- 8 Home Office Guidance: Licensing Objectives
- 9 Home Office Guidance: Conditions