

APPENDIX A

WAVERLEY BOROUGH COUNCIL
LICENSING SUB-COMMITTEE 'C'
9 MARCH 2009

LICENSING ACT 2003 - APPLICATION FOR A NEW PREMISES LICENCE – HKS
OCKFORD, OCKFORD ROAD FILLING STATION, OCKFORD ROAD,
GODALMING GU7 1QY

[Wards Affected: Godalming Central and Ockford]

Summary and Purpose

1. The purpose of the report is to enable the Sub-Committee to hold a hearing to consider an application for a new premises licence submitted by HKS Retail Limited for HKS Ockford, Ockford Road Filling Station, Godalming, under the Licensing Act 2003, where a representation has been submitted.

Current Licensed activities

2. Ockford Road Filling Station has not previously held a licence to sell alcohol and now wishes to add this activity at the retail shop at the premises, which is a convenience store and petrol sales forecourt. No licence has therefore been required to date for the premises.

Activities sought under the new licence application

3. The applicant now wishes to add alcohol and late night refreshment to the facilities at this petrol forecourt store, which states that it sells a wide range of convenience store goods. The hours for 'off-sales' of alcohol, late night refreshment and opening are summarised below and attached at Annexe 1 as an extract from the licence application form. A late night refreshment licence is required where hot food and/or drink is offered for sale between the hours of 11.00 pm and 5.00 am at night.

Prohibition of alcohol sales at service areas, garages, etc. - Section 176 of Licensing Act 2003

4. Section 176 of the Licensing Act 2003 provides for a restriction on the sale of alcohol at premises which are primarily used for the sale of petrol, or for the sale or maintenance of motor vehicles. This maintains the position of the previous (1964) licensing legislation, and it is for the licensing authority to decide in the light of the facts whether the premises is used primarily as a garage. The approach proposed in the Guidance under Section 182 of the 2003 Act suggests a continuation of the 1964 legislation, that is by taking a view from an examination of the intensity of use of each facility (shop and petrol sales) rather than from the turnover of income.

5. For example, in a rural area, the Guidance suggests, a garage shop might be used more intensively than the petrol sales side and it might therefore be eligible to seek a licence to sell alcohol. It is not considered that the premises at Ockford Road is in a rural location.
6. Paragraphs 5.23 - 5.25 of the latest Guidance on licensing of such premises, headed 'Garages' issued in June 2007, is reproduced at Annexe 2. On the subject of garages, the guidance states that, where there is insufficient evidence to establish primary use, it is left to the licensing authority to decide whether to grant the licence, and deal with any issues through enforcement, or to defer granting the licence until the primary use issue can be resolved to their satisfaction. Supplementary information on this matter is awaited from the applicant. Without this information the application cannot be determined.

Activities sought in the application for a Premises Licence

7. The following activities and times are sought in this application, also shown in the extract of the application form at Annexe 1:
 - Late Night refreshment (Box L) on Monday to Sunday, 2300 to 0500
 - Off-sales of alcohol (Box M) on Mondays to Sundays from 0600 to 2300
 - Hours of opening at the premises: 24 hour opening, but the applicant may elect not to open the store 24 hours a day every day, but requires the flexibility to do so subject to statutory or operational restrictions.
 - The application pages to address the four licensing objectives in respect of this application are also reproduced, as amended after discussions with Surrey Police.

Licensing Objectives

8. The four Licensing Objectives of the Licensing Act 2003 are set out below. Any representations for consideration must relate to one or more of these objectives.
 - Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Nuisance
 - Protection of Children from Harm

Representations received

9. Attached to this document at Annexe 3 is a plan showing the area of the premises (the licence plan) and one of the surrounding area. One letter of representation has been received from a local resident, attached at Annexe 4.
10. Surrey Police have raised no objection to the application, subject to the revised wording at Box P of the application, which allays their concerns. This has been accepted and submitted as an amendment by the applicant.

Environmental Health has no comment on the application. There have been no representations from the other Responsible Authorities (Surrey Fire and Rescue Service, Trading Standards, Surrey Children's Service, Health and Safety at Work, Planning).

What the Sub-Committee may do

11. The Sub-Committee, after hearing from the applicant and the person making the representation, may take one or more of the steps listed below in order to promote the Licensing Objectives which have given rise to the representations in this case. Reasons must be given by the Sub-Committee for any decision made, since there is an opportunity for any applicant or any objector to appeal to the Magistrates' Court against the Licensing Sub-Committee decision. The Sub-Committee may:
 - Grant the application as submitted; or
 - Refuse the application; or
 - Reduce or refuse parts of the application submitted,
 - Add conditions to meet the Licensing Objectives if the Sub-Committee considers it necessary in the light of the representation received.

12. An extract from the Government Guidance to local authorities under Section 182 of the Licensing Act 2003, as it applies to this application - paragraphs 9.19 to 9.28 - is attached as Annexe 5.

Subsequent Developments in this Application Procedure

13. Any further amendment to the application is to be submitted to the Licensing Officer, in a form which can be circulated, prior to the meeting.

Recommendation

It is recommended that the application for a new premises licence for Ockford Road Filling Station, Ockford Road, Godalming be considered and determined with regard to the representation received, statutory guidance and the Council's Statement of Licensing Policy 2008 - 2010. The Sub-Committee must take such steps (if any) as it considers necessary to promote the Licensing Objectives, having heard from the applicant and the person making representation.

Background Papers (CEX)

Application referred to above, representations referred to above.

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