

**LICENSING PANEL
9 SEPTEMBER 2015
2.06 - 3.05 PM**



Present:

Councillors Thompson (Chairman), Ms Gaw and Leake

In Attendance:

Donald Adams, Legal Adviser to the Panel
Charlie Fletcher, Licensing Officer
Amanda Roden, Democratic Services Officer

4. Declarations of Interest

There were no declarations of interest.

5. The Procedure for Hearings at Licensing Panels

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

6. Application for a Variation of Premises Licence - Shell Filling Station, 102 Yorktown Road, Sandhurst, GU47 9BH

The Panel's decision was that the Variation of a Premises Licence for Shell Filling Station, 102 Yorktown Road, Sandhurst, GU47 9BH shall be granted, in line with the mandatory conditions and conditions consistent with the Premises Operating Schedule at Annex E, on pages 39 and 40 of the agenda papers, including a revised condition 5.

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the Applicant's Representative Mr David Hook;
- the interested party (1), who submitted oral and written representations.

together with reference to the Licensing Objectives: Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, particularly noise nuisance, the Council's own Licensing Policy and the Secretary of State's guidance.

The Panel noted that none of the responsible authorities had made representations.

At the conclusion of the licensing panel, having heard from participants present, the participants and the applicant confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted the concerns of the public representation, which included that the filling station was situated in a mainly residential area bisected by a main road. There were other premises nearby which people could purchase alcohol from including a Co-op, and supermarkets a short drive away. The type of trade this application would attract, in particular between the hours of 06:00 and 08:00, was a concern as well as littering and consumption of alcohol on the site and in nearby areas such as the park. The extended hours for the sale of alcohol from the site could cause further noise disturbances at the site and along the main road late at night and early in the morning. Concern was raised that extending the hours of the sale of alcohol could cause crime, disorder and disturbance in the neighbourhood. In the past, groups of young people had congregated at the site causing raised noise levels and disturbance.

The Applicant's Representative clarified that the sale of alcohol was for consumption off the premises, so not on the premises or in the immediate vicinity of the premises. The forecourt at the premises was covered by Petroleum Regulations and the staff at the premises were required to have visibility over the site at all times. The site was covered by CCTV in colour and the staff needed to be responsible for the forecourt at all times whilst it was trading.

The pre-existing licence on the premises had been granted under the Licensing Act 1964. Under this Act there were prescribed hours for licences for the sale of alcohol and every off licence had the same hours but there was a newer Licensing Act 2003. The site sold fuel and convenience items from 06:00 to 23:00 and was no longer operated by Shell. The Applicant's Representative was aware of concerns raised in the past when the site was operated by Shell.

The difference in times for selling different products on the site was a potential source of difficulty with customers, as customers could purchase fuel and convenience items outside of the times of 08:00 to 23:00 Monday to Saturday and 10:00 to 22:30 on Sunday, which were the current times for the sale of alcohol. Some people who work overnight may wish to purchase alcohol at a different time of day to those working during the day. There were two types of customer; those who purchased fuel and those who purchased convenience items. If the business relied solely on the purchase of fuel it would be unprofitable; therefore it relied as well upon the purchase of convenience items, which kept the trade rolling as convenience items were priced higher than supermarket prices.

The Applicant was being proactive by applying to align the times of sale for both fuel and convenience items, and alcohol, so that customers could buy any of these items at the same time. The Applicant would ensure that the Licensing Objectives were adequately protected, and there had been no history of issues arising from other Motor Fuel Limited sites. The hours of sale applied for, fit with the trade the business was experiencing at present. The type of people purchasing alcohol was not relevant to the Licensing Objectives or the consideration of the application for the variation of the premises licence. This application allowed conditions, which could not be applied before, to be applied.

The Applicant's had the lease for the whole of the site including the store and forecourt area, and had operational control over both aspects of the site.

The Panel took into the consideration the public representation and the statement of the Applicant's Representative. In case of differences in interpretation, the definition of the premises and area the site covered would be clarified in condition 5 of Annex 2: Conditions consistent with the Premises Operating Schedule as follows:

(5) Alcohol shall not be sold in an open container or be consumed in or on any part of the licensed premises; which includes all buildings, the forecourt area and entire curtilage of all of that premises which is known as 102 Yorktown Road, Sandhurst, Berkshire. GU47 9BH.

The area referred to in condition (5) above is the area delineated in red on the attached plan.

The Panel decided that granting the variation of the premises licence, in line with the mandatory conditions and conditions consistent with the Premises Operating Schedule at Annex E, on pages 39 and 40 of the agenda papers, including the revised condition 5, would promote the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, and Protection of Children from Harm. The Panel found no evidence to justify refusing the variation of the application or any reason to impose any additional conditions in relation to the hours for the sale of alcohol.

If in the future there were any concerns which would have an adverse effect on the Licensing Objectives, the case could be reviewed by a Licensing Panel. In reaching its decision, the Panel took into consideration that the site was currently being leased to Motor Fuel Limited which would trade as a responsible body.

The Panel took into consideration that none of the responsible authorities had made representations, particularly the police who had the statutory lead on crime and disorder issues.

This was a case where the balance lay with granting the licence and if any of the concerns the objector raised about the 4 licensing objectives actually happened they could seek a review of the licence.

CHAIRMAN