

Report to the Licensing Sub-Committee

Date of meeting: 4th September 2012

**Subject: Shell UK Oil Products Limited - 124 Manor Road,
Chigwell, Essex IG7 5PP**

**Responsible Officer: Kim Tuckey 01992 564034
Senior Licensing Officer**

Democratic Services: Adrian Hendry



**Epping Forest
District Council**

Decisions Required:

To determine the application for a Premises Licence under the Licensing Act 2003

Report:

Application

1. An application has been made by Lockett & Co solicitors on behalf of Shell UK Oil Products Limited for a premises licence in respect of the above premises. The application was received on the 12th July 2012 and is attached to this report. The application sets out the relevant licensing activities applied for and times requested.

- The provision of late night refreshment – indoors between 23:00 and 5:00 hours Monday to Sunday inclusive
- Supply of Alcohol – Off the Premises from 00:00 to 24:00 hours Monday to Sunday inclusive.

The premises are to be open to the public from 00:00 to 24:00 hours Monday to Sunday inclusive.

2. The Operating Schedule sets out conditions which will be attached to the licence if this application is granted.

Licensing Act 2003

3. When considering an application for a licence the licensing authority must have regard to steps that are appropriate to promote of the licensing objectives.

These are—

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

4. It must also have regard to its Statement of Licensing Policy and any guidance issued by the Secretary of State.

Garages

5. Section 176 of the Licensing Act 2003 prohibits the sale of alcohol from premises that are used primarily as a garage. Premises are used as a garage if they are used for one or more of the following:

- the retailing of petrol;

- the retailing of derv; and
- the sale of motor vehicles and maintenance of motor vehicles

The Secretary of State guidance for Authorities issued under S182 of the Licensing Act 2003 states with regards to garages that:

“The licensing authority must decide whether or not any premises is used primarily as a garage. The approach endorsed so far by courts is based on the intensity of use to establish primary use. For example, if a garage shop in a rural area is used more intensely by customers purchasing other products than customers purchasing the products or services listed above, it may be eligible to seek authority to sell or supply alcohol.”

Where there is insufficient evidence to establish primary use, it is for the licensing authority to decide with any issues through enforcement action or defer granting a licence until such time primary use can be resolved to their satisfaction.”

6. The premises sell petrol and derv and are therefore classed as a garage for the purposes of the Licensing Act. The applicant has supplied an Analysis of Intensity Use which is attached to the application which sets out the amount it receives from the sale of the fuel and from the sale of the convenience store. The total for the sale of fuel for the period 1st January 2012 to 31st March 2012 inclusive was £85,968 and for the same period the sales from the convenience store were £210,890.

Consultation

7. The Responsible Authorities have received a copy of the application. It was properly advertised at the premises and in a local newspaper

8. The Authority has received the following representations on the grounds of Crime and Disorder and Noise Nuisance

- Three objections to the sale of alcohol, and
- Two objections to the sale of alcohol and late night refreshments.

9. Essex Police and the Council’s Neighbourhood team responded stating that they would make no representations to the application

Guidance Issued by the Secretary of State

10. The Licensing Act 2003 provides that the licensing authority must ‘have regard to’ guidance issued by the Secretary of State under section 182.

- Section 5.22 of the Guidance which relates to the sale and supply of alcohol from a garage which is mentioned above is relevant to this application.
- Section 2 relates to Crime and Disorder and Public Nuisance
- Section 3.12 Late Night Refreshment

Options

11. In determining this application the Sub-Committee may take any of the following steps as it considers necessary for the promotion of the licensing objectives, namely:

- (a) to grant the licence as applied for subject to
 - the conditions mentioned in the Operating Schedule modified as the Sub-committee considers necessary for the promotion of the licensing objectives, and
 - the mandatory conditions specified in the Licensing Act 2003, or

- (b) to exclude from the scope of the licence any licensable activities to which the application relates, or
- (c) refuse to specify a person as the premises supervisor, or
- (d) reject the application

Determination

12. The Sub-committee is asked to determine the application having regard to

- (a) the content of this report and representations
- (b) any additional information obtained from the hearing
- (c) the Council's statement of licensing policy
- (d) Guidance issued by the Secretary of State, and
- (e) the steps appropriate to promote the licensing objectives.

Appeal

13. If any party is aggrieved with the decision they can appeal to Magistrates court. The appeal period is 21 days from notification of the decision.

Background Papers Used In Preparing This Report:

- The Licensing Act 2003
<http://www.legislation.gov.uk/ukpga/2003/17/contents?view=plain>
- The Secretary of State's Guidance issued under Section 182 Licensing Act 2003
- Epping Forest District Council's statement of licensing policy.
<http://www.eppingforestdc.gov.uk>

Attached documents

- Application for premises licence and supporting documentation
- Representations
- Map showing the area