

Report to the Licensing Sub Committee

Date of meeting: 12 December 2018



**Epping Forest
District Council**

Subject: New Premises Licence application for Shell Half Moon, 24 – 36 High Street, Epping, Essex, CM16 4AE

**Responsible Officer: Debbie Houghton, Licensing Officer
Democratic Services: R. Perrin**

Decisions Required:

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

Report:

Application

1. An application has been made by Shell UK Oil Products Ltd, for a new premises licence at 24 – 36 High Street, Epping, Essex, CM16 4AE.

2. The application is for the following licensing activities,

The Supply of Alcohol - Monday to Sunday 07.00 – 23.00pm

Opening times of the Premises - Monday to Sunday 07.00 – 23.00pm

3. The application was received on the 25th October 2018. The Operating Schedule sets out conditions which will be attached to the licence if this application is granted.

4. 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.

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

Consultation

6. The Responsible Authorities have all received a copy of the application, it was also advertised at the premises and in a local newspaper. The blue notice and the newspaper advert are attached to the report.

7. All residences and businesses within 150 meters radius of the premises were individually consulted.

8. The authority has received a representation from Essex Police and 3 representations from residents, see emails and copies of letters attached.

9. There was also a response from Health and Safety with no representation to make, copy of which is attached.

10. The Representation from Essex Police relates to the validity and lawful status of the application. Essex Police suggest the premise is an “excluded premises” as defined under section 176 of the Licensing Act 2003.

Section 176 of the Licensing Act 2003 prohibits the sale or supply of alcohol at motorway service areas and from premises which are used primarily as a garage, or are part of the premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:

- The retailing of petrol
- The retailing of Derv
- The sale of motor vehicles
- The maintenance of motor vehicles.

11. Section 176 of the Licensing Act 2003 – Prohibition of Alcohol sales at service areas and garages, states that;

(1) No premises licence, club premises certificate or temporary event notice has effect to authorize the sale by retail or supply of alcohol on or from excluded premises.

(2) In this section “excluded premises” means –

(a) Premises situated on land acquired or appropriated by a special road authority, and for the time being used, for the [provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class 1 (with or without other classes); or

(b) Premises used primarily as a garage or which form part of premises which are primarily so used.

12. Essex Police and Epping Forest District Council have asked for a “footfall” analysis for the sales of petrol ratio to other commodities from the solicitors representing the applicant, this has been submitted and is attached to this report.

13. The Objections relate to the Prevention of Crime and Disorder, Prevention of Public Nuisance, and Public Safety and The Protection of Children from Harm.

Guidance Issued by the Secretary of State

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

15. Sections 2.15 to 2.21 of the Guidance are relevant to this application

Options

16. 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

17. 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
- (c) Guidance issued by the Secretary of State; and
- (e) the steps appropriate to promote the licensing objectives.

Appeal

18. 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.
- Plan of the premises
- Newspaper advert and Public Blue Notice
- Representation from Essex Police
- 2 emails and 1 letter of representations from residents.
- Response from Health and Safety
- Analysis from solicitors for the "footfall" of sales.