

Report to the Licensing Committee



Date of meeting: 5 July 2011

**Epping Forest
District Council**

Subject: Warren Wood Service Station, Epping New Road Buckhurst Hill IG9 5UA

Responsible Officer: Kim Tuckey (01992 564034).

Democratic Services Officer: Adrian Hendry (01992 564246)

Recommendations/Decisions Required:

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

Report:

Application

1. An application has been made by Ramachandran Saravanabavan for a premises licence for the above premises. The application was received on 12 May 2011 and is attached to this report. The application sets out the relevant licensing activities applied for and times requested.
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 the promotion 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.

Garage

4. 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.

5. The Secretary of State has issued guidance for Authorities under S182 with regards to garages. This states:

“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 applicant has supplied the authority copies of till rolls. The Senior Licensing Officer has the Applicant for further information which will be reported to the Sub-Committee.

Consultation

7. The 2003 Act allows representations to be made in respect of any application by authorised persons and interested parties. An interested party may be:

- (a) a person living in the vicinity of the premises in question or their representative
- (b) a person involved in a business in the vicinity of the premises or their representative, and
- (c) a member of the licensing authority.

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

9. The authority has received one representation from local residents Sharon and William Kilburn, who name persons from four other addresses who they state that they are representing. It is for the Licensing Sub-Committee to decide whether the objections set out in the letter relate to one of the four licensing objectives.

10. A petition in favour of the application has also been submitted, however there are no addresses supplied, therefore the licensing authority has not been able to identify the signatories on the petition. There is no information as to whether any of the signatories live in the vicinity.

11. There is a plan of the area attached to this application. The Sub-Committee must decide a representation is relevant. This will involve deciding whether the person making the representation lives in the vicinity.

12. S182 guidance states *“In making their initial decision on the question of vicinity, licensing authorities should consider whether the individual’s residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside the premises. In other words, it is the impact of issues relating to the four licensing objectives that is the key consideration. “*

Options

13. 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 or in this case defer the application until primary use is proven.

Determination

14. 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 necessary to the licensing objectives.

Appeal

15. 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:

- 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
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing?view=Binary>
- Epping Forest District Council's statement of licensing policy.
<http://www.eppingforestdc.gov.uk>

Attached documents

- Application for premises licence
- Representation from Interested Parties
- Map showing the area