

LICENSING SUB-COMMITTEE
25th June 2018

LICENSING ACT 2003

Application for: Application to Vary a Premises Licence

Premises: BP Oil UK Limited, Brands Hatch SF Connect, 575-581
London Road, Slough, SL3 8QF

Applicant: BP Oil UK Limited

Reason for Referral: Representations made

1. CURRENT POSITION

1.1 An application to vary Premises Licence has been made by Winckworth Sherwood Solicitor on behalf of the Premises Licence holder BP Oil UK Limited to vary the premises licence as follows:

1. To extend the hours for the sale of alcohol to 24 hours a day 7 days week.
2. To remove all the embedded restrictions set out in Annex 2 on the premises licence.
3. To remove all the conditions set out in Annex 2 on the premises licence.
4. To include the conditions set out in boxes B and E of Section M of the operating schedule.

1.2 A copy of the application to vary the premises licence is attached at **Appendix A**.

2. BACKGROUND INFORMATION

2.1 BP Oil UK Limited, Brands Hatch SF Connect, 575-581 London Road, Slough, SL3 8QF is the holder of Premises Licence **PL4508** issued by Slough Borough Council. A copy of the current premises licence is attached at **Appendix B**.

3. REPRESENTATIONS RECEIVED

3.1 Three individual formal representations and a petition objecting to the application have been received from the following:

- Other Persons (i.e. local residents)

3.2 Any person may make representations in relation to applications for the variation of a Premises Licence, so long as such representations relate to one or more of the licensing objectives and are not deemed to be frivolous or vexatious.

3.3 The individual representations detail concerns under the Licensing Objective as follows:

- **The Prevention of Public Nuisance**

In summary - The immediate area already suffers from an accumulation of litter and noise associated with customers using the service station, noise from the service itself, comments of loud anti-social behaviour, and that the sale of alcohol as requested would contribute further to the existing problems.

The individual representations are attached as **Appendix C**.

3.3 The petition received from local residents has been submitted relating to concerns quoting all 4 licensing objectives as follows;

- **The Prevention of Crime and Disorder**
- **Public Safety**
- **The Prevention of Public Nuisance**
- **The Protection of Children from Harm.**

In summary - The area already suffers from a serious problem with large numbers of street Drinkers, associated nuisance and anti-social behaviour, as well as litter and public urination in public areas nearby, and a problem of drunken behaviour.

The petition objecting to the application is attached at **Appendix D**.

3.4 There have not been any representations made from any of the Responsible Authorities including the Thames Valley Police and Neighbourhood Enforcement Team or from any other persons.

4. RELEVANT GUIDANCE

4.1 The committee must have regard to the amended Secretary of States guidance issued in April 2018 under Section 182 of the Licensing Act 2003 and in particular Chapters 9 (Determining applications) and 10 (Conditions attached to Premises Licences). Particular regard should be had to paragraphs 9.31 – 9.41 (Hearings) and 9.42 – 9.44 (Determining actions that are appropriate for the promotion of the licensing objectives).

4.2 With regards to Relevant, Frivolous or Vexatious Representations the relevant sections of the Section 182 Guidance state the following:

9.4 *A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable*

activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 *It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.*

9.6 *Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.*

9.7 *Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.*

9.8 *Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.*

9.9 *It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.*

9.10 *Licensing authorities should consider providing advice on their websites about how any person can make representations to them*

4.3 The Sub-Committee must also have regard to the Council's Statement of Licensing Policy 2014-2019, including paragraph 4.27 (hours of sales in off licences).

5. DETERMINATION – OPTIONS AVAILABLE TO THE SUB-COMMITTEE

5.1 Following the hearing, having had regard to the representations made by the parties, the committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Grant the application as it stands in which case it would be issued subject to the relevant mandatory conditions and conditions consistent with the applicant's operating schedule.
2. Grant the application subject to the mandatory conditions and conditions consistent with the applicant's operating schedule, but modified to the extent the committee consider appropriate for the promotion of the licensing objectives. (Conditions are modified if any of them is altered or omitted or any new condition is added. Conditions must be reasonable, proportionate and appropriate in order to meet one or more of the licensing objectives.)
3. Refuse the application.

APPENDICES

Appendix 'A' – Copy of the application to vary the premises licence

Appendix 'B' – Copy of Premises Licence PL4508

Appendix 'C' – Copy of representations

Appendix 'D' – Petition of objection to the application

Background papers

- The Licensing Act 2003
- Guidance issued under Section 182 of the Licensing Act 2003 (April 2018)
- Regulations (cited as the Licensing Act 2003 ([Various]) Orders 2005
- Slough Borough Council Statement of Licensing Policy – January 2014

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