

**NEW FOREST DISTRICT COUNCIL**

**LICENSING SUB-COMMITTEE**

**APPLICATION: Moortown Service Station, Christchurch Road, Ringwood**

**Decision of the Licensing Sub-Committee meeting held at Appletree Court, Lyndhurst on 19 December 2006 at 2.00pm.**

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**1. Members of the Licensing Sub-Committee**

Councillor G C Beck - Chairman  
Councillor W H Dow  
Councillor R C H Hale

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**2. Parties and their Representatives attending the meeting**

Mr Chapman – Barrister representing the Applicant  
Mr Coy – Applicant  
Mr Hetherington – NFDC Licensing Officer  
Miss Sharp – Solicitor representing the Licensing Officer  
Sgt Adams – Witness from Hampshire Police for the Licensing Officer

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**3. Other Persons attending the meeting**

Miss Fice – Representative from Hampshire Police

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**4. Parties not attending the meeting**

None.

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**5. Officers attending to assist the Sub-Committee**

Mrs Heaselden - Solicitor  
Mrs Dunsmore – Committee Administrator

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## **6. Decision of the Sub-Committee**

The Committee considered the evidence provided very carefully, in particular the application of the two tests i.e the figures for sale of fuel and non-fuel items and the intensity of the use i.e the purpose of customer trips.

The argument put forward by the applicant that the figures provided proved, albeit on a narrow margin, that the premises were primarily a shop and not a garage, was considered to be over simplified. The argument was based on the fact that the figures purported to show a more than 50% use of the premises as a shop. On this basis, the 51%/49% approximate split was not considered to show primary use of a shop. The Sub-Committee were of the opinion that the margins were too narrow and did not accept that argument that a 51% or more use of the premises as a shop meant that it was primarily used as a shop.

Further to consider the application based only on income meant that there was no account taken of the price and value of products being purchased e.g one customer using only the shop could spend a large amount of money and on the figures this would appear to indicate a large number of customers using the premises as a shop. The second test therefore also needed to be applied.

In this regard the applicant had provided a survey taken over 11 days showing the purpose of the customer use of the premises. These figures showed that approximately 56% of customers were using the premises primarily for the purchase of fuel and fuel and shop purchases together.

The Sub-Committee considered that this survey taken together with the marginal income percentages does not prove a primary use of the premises as a shop.

Therefore the decision of the Sub-Committee is the use of the premises has not been proved to be primarily a shop and must therefore by their nature be premises used primarily as a garage. The premises are therefore 'excluded premises' for the purposes of Section 176 of the Licensing Act 2003.

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**Date 19 December 2006**

**Licensing Sub-Committee Chairman: Cllr G C Beck**

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**FOR OFFICE USE ONLY**

**Decision noted to interested parties on 21 December 2006**