

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: Gates Service Station, Sway Road, Brockenhurst

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Tuesday, 20 July 2010 at 2.00pm**

1. Members of the Licensing Sub-Committee

Councillor G C Beck - Chairman
Councillor J Penwarden
Councillor P R Woods

2. Parties and their Representatives attending the Hearing

Mr Gates – Applicant
Mr Mitchener– Agent representing the Applicant

Cllr Masefield, Brockenhurst Parish Council - Objector

3. Other Persons attending the Hearing

Jane Bateman, NFDC – Observing.

4. Parties not attending the Hearing

None.

5. Officers attending to assist the Sub-Committee

Edward Williams – Legal Advisor
Andrew Rogers – Clerk

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

M: Supply of Alcohol (off the premises)

Monday 07.00 to 22.00
Tuesday 07.00 to 22.00
Wednesday 07.00 to 22.00
Thursday 07.00 to 22.00
Friday 07.00 to 22.00
Saturday 07.00 to 22.00
Sunday 07.00 to 22.00

Hours premises to be open to the public

Monday 00.00 to 24.00
Tuesday 00.00 to 24.00
Wednesday 00.00 to 24.00
Thursday 00.00 to 24.00
Friday 00.00 to 24.00
Saturday 00.00 to 24.00
Sunday 00.00 to 24.00

Mandatory conditions:

As provided in the Licensing Act 2003

Other conditions:

1. CCTV will be installed and maintained at the premises to the satisfaction of the Licensing Authority and Police. As a minimum it will enable surveillance of both internal and external areas of the licensed premises including all entrances and exits. Recordings from the system will be to a standard acceptable as evidence in a court of law and will be securely retained for a minimum of 30 days. The CCTV system will be capable of producing immediate copies of recordings on site and will be surrendered in a playable format to Hampshire Constabulary as soon as reasonably practicable but in any case within 24 hours. The system will be maintained and fully operational, as a minimum, throughout the hours that the premises are operating.
2. All staff will be trained to ensure they are conversant with the licensing objectives, premises licence conditions and operating schedule. Individual written training records will be kept for all members of staff.
3. A written log shall be kept of all refusals to sell alcohol. The holder of the premises licence shall ensure that the refusals log is properly maintained and that the log is checked and signed by store management once a month.
4. The holder of the premises licence shall ensure that all staff are trained to challenge every individual attempting to purchase alcohol who appears to be under 21 years of age and to refuse service where those individuals cannot produce acceptable means of identification. Such training shall be provided not less than every six months, and written records shall be kept of all training and refresher training and the training will require that every individual who appears to be under 21 years of age seeking to purchase or be supplied with alcohol at or from the premises shall produce means of identification acceptable to the licensing authority such as a passport, photo driving licence or PASS accredited photo ID proving that individual

to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

5. 'Challenge 21' posters shall be displayed in prominent positions at the premises.

7. Reasons for the Decision

The Sub-Committee carefully considered the application along with the evidence, both written and oral, supplied by the applicant and objector.

Upon a review of evidence provided by the applicant, the Sub-Committee decided that the primary use of the premises is not likely to be that of a garage under section 176 of the Licensing Act 2003. Consequently, the Sub-Committee did not consider that the premises were 'excluded' under section 176.

Further, the Sub-Committee did not consider that there was sufficient evidence to establish that any of the licensing objectives would be prejudiced by the granting of a premises licence.

The objections largely focussed on historic incidents, unrelated to the premises, that occurred outside the immediate vicinity of the premises, along with speculation as to what might happen if a licence was granted. The Sub-Committee considered that, pursuant to the section 182 Guidance that accompanies the Act (and subsequent legal authorities), such objections did not give sufficient grounds to refuse the application.

The Sub-Committee also noted the absence of any objections from the responsible authorities.

Accordingly, the Sub-Committee was prepared to grant a premises licence for the supply of alcohol (off the premises) in the terms set out at section 6 above.

Any interested party or responsible authority may ask for the premises licence to be reviewed by the Licensing Authority in the future if any of the licensing objectives have been prejudiced.

Date: 20 July 2010

Licensing Sub-Committee Chairman: Cllr G Beck

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Decision notified to interested parties on 21 July 2010