



Please ask for:

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My Ref: **08/00294/LANPRE**

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Thursday, 26 June 2008

PUBLIC NOTICE

MEETING: LICENSING SUB-BOARD

DATE: 10TH JULY 2008

TIME: 10:00HRS

VENUE: COUNIL CHAMBER

SENIOR LICENSING OFFICER: RUSSELL BRAY

BOROUGH SOLICITOR

MEMBERS OF THE SUB-BOARD

Councillor Smith

Councillor Allen

Councillor Carter

FIRE PRECAUTIONS

(To be read if members of the public are present)

In the event of the fire alarm (continuous ringing) or controlled evacuation alarm (intermittent ringing) sounding, please leave the room immediately.

Proceed downstairs by way of the main stairs or as directed by GBC staff, follow any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.

Environmental Services Unit: David Jago – Environmental Services Manager

Switchboard Telephone Number: **(023) 9258 4242**

Britdoc Number: **DX136567 Gosport 2** Website: **www.gosport.gov.uk**

AGENDA

1. APOLOGIES FOR NON-ATTENDANCE

2. DECLARATIONS OF INTEREST

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter, any personal or personal and prejudicial interest in any item(s) being considered at this meeting.

3. TO CONSIDER APPLICATIONS RECEIVED (copies attached)

Application: Premises Licence
Premises: Anson Service Station
Address: 219 Brockhurst Road
Gosport
Hampshire
PO12 3AZ

Reference: 08/00294/LANPRE

IMPORTANT NOTICE:

- The Summons, Agenda and accompanying Reports can be provided in large print, in Braille or in other languages on request
- If you are in a wheelchair or have difficulty in walking and require access to the venue on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request.

If you require any of the services detailed above please ring Gaynor Williams on 023 9254 5503.

GOSPORT BOROUGH COUNCIL

REPORT TO THE:	LICENSING SUB-BOARD
MEETING DATE:	10TH JULY 2008
REPORT OF:	ENVIRONMENTAL SERVICES MANAGER
APPLICATION:	APPLICATION FOR A NEW PREMISES LICENCE. ANSON SERVICE STATION, 219 BROCKHURST ROAD, GOSPORT HAMPSHIRE PO12 3AZ APPLICATION REFERENCE NUMBER 08/00294/LANPRE

1.0 APPLICATION

1.1 Summary of application

The application has been received to grant a Premises Licence for the retail sale of alcohol and the provision of late night refreshment. The full extent of the application is detailed in the application form which is attached as Appendix 1, the plan at Appendix 6 and table 1 of this report, which identifies the proposed activities and trading hours.

2.0 BACKGROUND INFORMATION.

2.1 The premises have not previously operated under a Justices Licence under the Licensing Act 1964 or a Premises Licence under the Licensing Act 2003 for alcohol sales off of the premises.

2.2 The Licensing Act 2003 Section 176 (1) states No premises licence, club premises certificate or temporary event notice has effect to authorise the sale by retail or supply of alcohol on or from excluded premises

2.3 The Licensing Act 2003 Section 176 (2) states in this section “excluded premises” means- (2)(b) premises used primarily as a garage or which form part of premises which are primarily so used.

2.4 The Licensing Act 2003 Section 176 (2)(c) premises are used as a garage if they are used for one or more of the following-

- (i) the retailing of petrol
- (ii) the retailing of derv
- (iii) the sale of motor vehicles
- (iv) the maintenance of motor vehicles

2.5 The applicants have been asked to provide evidence to support their application, whether or not the premises are primarily used as a garage.

2.6 Their solicitor states in an e-mail Appendix 2 that during the period of January to December 2007 shop related transactions amounted to 43% of takings. Further correspondence between the Council's Litigation Lawyer and their solicitors is attached Appendix 3, 4 and 5.

2.7 The licensing authority must decide whether or not any premises is used primarily as a garage. The approach endorsed so far by the courts is based on intensity of use to establish primary use. For example, if a garage shop in any rural area is used more intensely by customers purchasing other products than by customers purchasing the products or services listed above, it may be eligible to seek authority to sell or supply alcohol.

2.8 Where there is insufficient evidence to establish primary use, it is for the licensing authority to decide whether to grant the licence and deal with any issues through enforcement action or to defer granting the licence until the primary use issue can be resolved to their satisfaction.

3.0 PROMOTION OF LICENSING OBJECTIVES

3.1 The applicant has included in the application form the measures they propose to take to address the four licensing objectives. The applicant is a national company with experience of operating this type of premises.

4.0 RESPONSIBLE AUTHORITIES

4.1 A representation from a Responsible Authority was mediated between parties.

5.0 INTERESTED PARTIES

5.1 No representations have been received from residents in the vicinity of the premises.

6.0 POLICY CONSIDERATIONS

6.1 The following provisions of the Licensing Act 2003 apply to this application:

Part 1, Section 1 Licensable Activities.

Part 3 Premises Licences. Section 11, 13, 14, 16, 17, 18 & 19.

Part 9 Miscellaneous and Supplementary. Section 176

6.2 The following provisions of the Secretary of State's guidance apply to this application:

Chapter 1, Introduction.

Chapter 2, The Licensing Objectives, para 2.1 – 2.18 Crime and disorder.
Chapter 5 Who needs a premises licence?, para 5.23, 5.24 and 5.25
Chapter 8, Applications for premises licences.
Chapter 9, Determining applications.
Chapter 10, Conditions attached to premises licences and club premises certificates.
Chapter 12, Appeals

6.3 The following paragraphs of this authority's statement of licensing policy apply to this application:

2.1	Introduction
2.20	Licensing hours
2.30	Objections/Review hearings
2.37	Appeals
3.18-3.21	Premises licences
4.1 – 4.1.8	Prevention of crime and disorder
Appendix B	Prevention of Crime and Disorder.

7.0 OFFICERS' OBSERVATIONS

7.1 The Sub-Board has to determine this application with a view to deciding if the premises are "excluded premises" as defined by the Licensing Act 2003.

7.2 The Sub-Board has to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance
- Protection of children from harm

7.3 In making its decision the Sub-Board is also obliged to have regard to the national guidance and this Authority's Statement of Licensing Policy.

7.4 The Sub-Board must take such of the following steps it considers necessary to promote the licensing objectives:

- i. Grant the application as submitted; or
- ii. Reject the whole or part of the application.

Decisions made under ii or iii above might actually be necessary to promote the licensing objectives.

8.0 LICENCE CONDITIONS

8.1 Mandatory Conditions

8.1.1 Section 19 - Where licence authorises supply of alcohol

(I) No supply of alcohol may be made under the premises licence –

at any time when there is no designated premises supervisor in respect of the premises licence. or

at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(ii) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

9.0 OTHER CONSIDERATIONS

9.1 The Human Rights Act 1998 applies. This guarantees the right to a fair hearing for all parties in the determination of their civil rights. The hearing procedure satisfies this requirement and in addition there are rights of appeal given to applicants and those making representations against the Licensing Authority's decision to the Magistrates Court. The licence is deemed to be a possession and therefore Article 1 of the First Protocol is engaged and this provides that no-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law.

10.0 ASSOCIATED PAPERS

The Sub-Board's attention is drawn to the following associated papers that are attached

10.1 APPENDICES

1. Application form
2. Solicitors e-mail
3. Council Legal Correspondence to Solicitor (1)
4. Solicitor Correspondence
5. Council Legal Correspondence to Solicitor (2)
6. Plan of premises/location.

Table 1 digest of current and requested licensing activities and hours

Contact/Lead Officer

For further information please contact
or email gaynor.williams@gosport.gov.uk

G Williams 02392 545503

TABLE 1 – PROPOSED LICENSING ACTIVITIES AND HOURS

Licensing/Activities	Description	Hours
M Sale of Alcohol	Off Licence	Every day 08:00 –23:00
Non-Standard Timings. These are times of operating outside of the times outlined in the Operating Schedule.	None	
Regulated Entertainment:	N/A	
A Plays	N/A	
B Films	N/A	
C Indoor Sporting Activities (excluding boxing/wrestling)	N/A	
D Boxing or Wrestling		
E Live Music	N/A	
F Recorded Music	N/A	
G Performances of Dance	N/A	
H Anything similar to live or recorded music	N/A	
I Making Music	N/A	
J Dancing	N/A	
K Provisions similar to I or J	N/A	
L Provision of late night refreshment	Through night pay window from midnight	Every day 23:00 – 05:00
O Hours open to the public. NB not necessarily for licensable activities		Every day 08:00 – 24:00