

## **STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL**

### **Report to Licensing Sub-Committee**

**19<sup>th</sup> May 2017**

<b>TITLE:</b>	<b>Application to Vary a Premises Licence – MRH Petrol Station, Congleton Road, Biddulph, ST8 6QL</b>
<b>PORTFOLIO:</b>	<b>Environment</b>
<b>OFFICER:</b>	<b>Mike Towers, Senior Officer (Housing, Public Health &amp; Licensing)</b>

#### **Appendices Attached;**

Appendix 1 – Application to Vary Premises Licence

Appendix 2 – Current Premises Licence

Appendix 3 – Planning Decision Notice

Appendix 4 – Relevant Resident Representations

Appendix 5 – Email from Solicitors 11/04/2017

Appendix 6 – Email from local objector 02/05/2017

1. **Reason for the Report:** To advise the Licensing Sub-Committee of an application to vary the Premises Licence of the MRH Petrol Station, Congleton Road, Biddulph, ST8 6QL and to determine the application.
  
2. **Recommendation**
  - 2.1 The Licensing Committee are invited to determine the application and to that purpose may:-
    - 2.1.1. Approve the Application;
    - 2.1.2. Approve the Application with amendment to the proposed hours or the addition of any relevant additional conditions as may be deemed necessary and appropriate;
    - 2.1.3. Reject the Application.

### 3. Executive Summary

- 3.1 An Application to Vary the Premises Licence in connection with the MRH Garage, Congleton Road, Biddulph, ST8 6QL was received from Malthurst Petroleum Ltd of Minerva House, 5 Montague Close, London, SE1 9BB on 9<sup>th</sup> March 2017. A copy of the on-line Application is provided at Appendix 1.
- 3.2 The Application proposed to vary the hours of operation of the business in terms of late night refreshment and the sale of alcohol, to enable the business to carry out the following activities:-
  - 3.2.1 The extension of hours to allow the sale of alcohol over a 24 hour period daily;
  - 3.2.2 The provision of late-night refreshment between the hours of 23:00 and 05:00 daily;
  - 3.2.3 To remove the conditions in Annex 2 of the current Premises Licence and any embedded restrictions relating to the sale of alcohol;
  - 3.2.4 To include replacement conditions in Annex 2 of the current Premises Licence.

A copy of the current Premises Licence is attached at Appendix 2.

- 3.3 The application also included an extension of the premises opening hours to accommodate the above requests.
- 3.4 The Application was publicised in accordance with the requirements of the licensing Act 2003. All relevant statutory consultees were sent a copy of the application. The Authority received a number of responses to the consultation:-
  - 3.4.1 A representation was received from the Planning Service at Staffordshire Moorlands District Council, referring to the conditions of Planning Consent SM.98-0950 29/04/1999 restricting opening hours of the premises from 06:00 to 23:00 Monday to Sunday. A copy of the Planning Decision Notice is attached as Appendix 3;
  - 3.4.2 A large number of residents submitted representations against the extension of the opening hours and the sale of alcohol for 24 hours daily. A total of six representations were deemed to be relevant in respect of the licensing objectives. The relevant representations are attached as Appendix 4.
- 3.5 Following the representations received, the applicant was informed and was asked if they wished to withdraw or vary their application. An email was received from the solicitors acting for the applicant on 11<sup>th</sup> April 2017 to confirm that the part of the application in respect of late night refreshment was withdrawn. The application was now only in respect of the sale of alcohol between 06:00 and 23:00 hours daily, in line with the

current opening hours stated on the planning consent. A copy of the email is attached as Appendix 5.

- 3.6 The residents who had submitted relevant representations were contacted to advise of the change, and were invited to withdraw their representations in the light of the proposed amendment. All but one of the residents withdrew their representation. One resident contacted the Council on 2<sup>nd</sup> May 2017 to confirm that they still objected to the extension of the hours for the sale of alcohol and that they wished their representation to be considered at a meeting of the Licensing Sub-Committee. A copy of the email is attached as Appendix 6.
- 3.7 In accordance with the licensing requirements, a meeting of the Licensing Sub-Committee was therefore scheduled to hear the representation.

#### 4. **Implications**

4.1 Community Safety - (Crime and Disorder Act 1998)

Potential impact on crime and disorder.

4.2 Workforce

None.

4.3 Equality and Diversity/Equality Impact Assessment

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

4.4 Financial Considerations

None.

4.5 Legal

N.B. All parties have the right of appeal to the Magistrates Court.

4.6 Sustainability

None.

4.7 Internal and External Consultation

Responsible Authorities:-

Fire Officer – None received

Planning Officer – Representation received

Health and Safety Authority – None received  
Child Protection Body – None received  
Staffordshire County Council Trading Standards - None received  
Staffordshire Public Health - None received  
Staffordshire Police – None Received  
Environmental Health Officer – None received

Other Persons:-

Residents - 43 Representations received – 37 were not relevant to the licensing objectives, 6 contained relevant objections.

## 5. Background and Detail

5.1 An Application to Vary the Premises Licence in connection with the MRH Garage, Congleton Road, Biddulph, ST8 6QL was received from Malthurst Petroleum Ltd of Minerva House, 5 Montague Close, London, SE1 9BB on 9<sup>th</sup> March 2017. The Application proposed to vary the hours of operation of the business in terms of late night refreshment and the sale of alcohol, to enable the business to carry out the following activities:-

5.1.1 The extension of hours to allow the sale of alcohol over a 24 hour period daily;

5.1.2 The provision of late-night refreshment between the hours of 23:00 and 05:00 daily;

5.1.3 To remove the conditions in Annex 2 of the current Premises Licence and any embedded restrictions relating to the sale of alcohol. Annex 2 states that the licence has been granted upon the conversion, under Schedule 8 to the Licensing Act 2003, of the existing justices' licence and such rights and restrictions that applied thereto are hereby incorporated into this licence, subject to any terms herein to the contrary and/or any limitation or restriction imposed by the Licensing Act 2003 or any subsequent amendment thereto. The Annex goes on to state the following restrictions:-

5.1.3.1 No alcoholic goods will ever be purchased from sellers calling to the shop;

5.1.3.2 Invoices (or copies) for all alcoholic goods on the premises will be kept at the shop and made available to officers from Trading Standards, the Police or HMRC upon request;

5.1.3.3 A stock control system will be introduced, so that the licensee or relevant person can quickly identify where and when alcoholic goods have been purchased;

5.1.3.4 An ultra-violet light will be available and used at the premises for the purpose of checking the UK

- duty stamp on spirits as soon as practical after they have been purchased;
- 5.1.3.5 If any spirits bought by the business have UK duty stamps that do not fluoresce under ultra-violet light, or are otherwise suspicious, the licensee or relevant person shall identify the supplier to Staffordshire County Council Trading Standards and HMRC as soon as possible.
- 5.1.4 To include replacement conditions in Annex 2 of the current Premises Licence. The replacement Conditions are stated on the application form as follows:-
- 5.1.4.1 A CCTV system will be installed, or the existing system maintained, such system to be fit for purpose;
- 5.1.4.2 The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded on good quality video tape or digitally on CD/DVD or other equivalent medium;
- 5.1.4.3 Any recording will be retained and stored in a suitable and secure manner for a minimum of 14 days and shall be made available, subject to compliance with Data Protection Legislation, to the Police for inspection on request;
- 5.1.4.4 The precise positions of the camera may be agreed, subject to compliance with Data Protection legislation, with the Police from time to time;
- 5.1.4.5 The system will display, on any recording, the correct time and date of the recording;
- 5.1.4.6 The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity;
- 5.1.4.7 The Premises Licence holder will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the Licensing Officer and the Police;
- 5.1.4.8 Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises;
- 5.1.4.9 The Premises Licence Holder will ensure that an Age Verification Policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.

The application also included an extension of the premises opening hours to accommodate the above proposal.

5.2 The Application was publicised in accordance with the requirements of the licensing Act 2003, and all relevant statutory consultees were sent a copy of the application. The Authority received a number of responses to the consultation:-

5.2.1 A representation was received from the Planning Service at Staffordshire Moorlands District Council objecting to the extension of opening hours and referring to the conditions of Planning Consent SM.98-0950 29/04/1999. The Decision Notice for this consent states at Condition 3 that the hours of operation of the business hereby approved shall be limited to 06:00 to 23:00 Monday to Sunday, including Public Holidays;

5.2.2 A large number of residents submitted representations against the extension of the opening hours and the sale of alcohol for 24 hours daily. A total of 43 representations were received by the Council, but on assessment 37 of these were found to have no direct relevance to the licensing objectives, and consisted predominantly of a generic set of photocopied representations that had clearly been circulated in the vicinity of the premises and for some distance beyond. In total, six representations were deemed to be relevant in respect of the licensing objectives.

5.3 Following the representations received, the applicant was informed and was asked if they wished to withdraw or vary their application. An email was received from the solicitors acting for the applicant on 11<sup>th</sup> April 2017, to confirm that the part of the application in respect of late night refreshment was withdrawn. The application was now only to extend the licensable hours for the sale of alcohol between 06:00 and 23:00 hours daily, to bring these in line with the opening hours stated on the planning consent. The residents who had submitted relevant representations were contacted to advise of the change, and were invited to withdraw their representations in the light of the proposed amendment. All but one of the residents withdrew their representation. One resident contacted the Council on 2<sup>nd</sup> May 2017 to confirm that they still objected to the extension of the hours for the sale of alcohol, and that they wished their representation to be considered at a meeting of the Licensing Sub-Committee.

5.4 In carrying out its duties under the Act, the Licensing Authority will actively promote the licensing objectives, namely: -

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

- 5.5 The Licensing Authority will view each objective with equal importance and pay due regard to any guidance issued by the Secretary of State under section 182 of the Act and the local statement of policy.
- 5.6 The Licensing Authority has the ability to deviate from both the guidance issued by the Secretary of State and/or this statement of licensing policy where the facts of a case merit it. If such an occasion does arise then full reasons for such deviation will be given as part of the published decision.
- 5.7 The Sub-Committee must also have regard to all of the representations made and the evidence it hears.
- 5.8 The Sub-Committee must take such steps as it considers appropriate for the promotion of the licensing objectives and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added. The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.
- 5.9 The applicant and premises licence holder have the right of appeal to the Magistrates Court within the period of 21 days beginning with the day on which the applicant and premises licence holder are notified in writing of the Licensing Sub-Committee's decision.

Alicia Patterson

**Operations Manager (Environmental Health)**

**Web Links and  
Background Papers**

**Location**

**Contact details**