

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

09 June 2016

Report of the Director of Central Service and Monitoring Officer

Part 1- Public

Delegated

1 APPLICATION FOR A VARIATION OF THE PREMISES LICENCE FOR MRH DITTON, 613 LONDON ROAD, DITTON, MAIDSTONE, KENT, ME20 6PL.

1.1 Executive Summary

1.1.1 The Licensing & Appeals Committee sitting as a Panel is asked to consider an application for Variation of Premises Licence under section 34 of the Licensing Act 2003 for premises called MRH Ditton, 613 London Road, Ditton, Maidstone, Kent, ME20 6PL.

1.1.2 This is an application to change the licenced hours for the supply of alcohol for consumption off the premises that was validated on the 27 April 2016, with the 28 day consultation period which ran from the 28 April 2016 until the 25 May 2016.

1.2 Background and Introduction

1.2.1 The current premises licence is shown on the licensing database as 11/00452/PREM. A copy is shown at **Annex 1**

1.2.2 A map showing the location MRH Ditton and surrounding proprietries is shown at **Annex 2**

1.2.3 A Satellite map showing the location of MRH Ditton and surrounding proprietries is shown at **Annex 3**

1.2.4 At any stage, during the 28 day public consultation period, a responsible authority, or an interested party, may make representations in connection with any of the four licensing objectives namely:-

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

Provided that the grounds for the request are relevant to the promotion of the licensing objectives and, in the case of requests by interested parties, are not vexatious, frivolous or repetitive, a hearing must be held to consider the application.

- 1.2.5 The Licensing Act 2003 requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Council's current Statement of Licensing Policy was published in January 2011 and will remain in force for three years. The Policy will be available at the meeting, for reference purposes.
- 1.2.6 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to Guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for its departure from it. The Guidance will be made available at the meeting for reference purposes.

1.3 The application

- 1.3.1 The applicant is Malthurst Petroleum Limited, Vincent House, 4 Grove Lane, Epping, Essex, CM16 4LH.
- 1.3.2 The application which was received on 27 April 2016. A copy is shown at **Annex 4**.
- 1.3.3 A copy of the new plan is shown at **Annex 5**
- 1.3.4 The proposed variation asks for:
- 1) Extend the sale of alcohol hours to 24 hours per day, seven days a week
 - 2) Remove conditions from premises licence
 - 3) Add new conditions to the premises licence, as detailed in section 16 of the application.
 - 4) Update the plan currently attached to the premises licence
- 1.3.5 The proposed variation in respect to licensable activities is:

	Variation	Current Licence
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Section J	Supply of alcohol – Monday until Sunday 24 hours a day.	Monday until Sunday from 06:00 hours until 23:00 hours
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1.3.6 The Designated Premises Supervisor is Deanna Martin.

1.4 Reasons for referral

- 1.4.1 The Licensing Authority must under the Act refer any application for hearing to the Licensing & Appeals Committee, if relevant representations are made by a responsible authority or an interested party.
- 1.4.2 The Licensing Authority has, during the representation period received four representations from interested parties and one from a Responsible Authority (Kent Police)
- 1.4.3 A complete detailed set of the Representations received is shown at **Annex 6**
- 1.4.4 A map showing the location of MRH Ditton and people who have made a Representation is shown at **Annex 7**
- 1.4.5 The applicant and other persons that have made representations have been invited to attend the hearing.

1.5 Policy Considerations

1.5.1 The following provisions of the Secretary of State's Guidance apply to this application:

- Chapter 2 – The licensing objectives
- Chapter 8 – Applications for premises licences
- Chapter 9 – Determining applications
- Chapter 10 – Conditions attached to Premises Licences

1.5.2 The following paragraphs of the Councils' Statement of Licensing Policy apply to this application:

Sections 1.8 to 1.13 – These sections set out the Council's approach with regard to licensing and details other mechanisms to deal with potential problems.

Sections 2 – 6 – These sections set out the four licensing objectives and identifies matter that may be relevant to the promotion of each licensing objective.

1.6 Legal Implications - Determining the application

1.6.1 Section 4 of the Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the following Licensing Objectives -

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

Having regard to the relevant representations, the Panel must take such of the steps set out at paragraph 1.7.1 below, as it considers appropriate, for the promotion of the licensing objectives.

1.6.2 Section 18(10) of the Licensing Act permits the authority to grant a premises licence so that it has effect subject to different conditions in respect of:-

- Different parts of the premises concerned
- Different licensable activities covered

1.6.3 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.

1.6.4 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations, against decisions of the Licensing Authority to the Magistrates Court

1.7 Options Open to the Panel

1.7.1 The steps an authority may take are –

1. Grant the licence subject to
 - i. such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and
 - ii. any conditions which must under section 19, 20 or 21 of the Licensing Act 2003 be included in the licence (the mandatory conditions).
2. Modify the conditions of the licence. (a condition is modified if any of them is altered or omitted or any new condition is added)
3. Exclude from the scope of the licence any of the licensable activities to which the application relates;

4. Refuse to specify a person in the licence as the premises supervisor;
5. Reject the application

1.8 Financial and Value for Money Considerations

- 1.8.1 None unless there is a successful appeal against the Panel decision to the Magistrates' Court. This could result in costs being awarded against the Council.

1.9 Risk Assessment

- 1.9.1 Departure from the Guidance and Policy could lead to an increased risk on an appeal. Similar risks arise if any decision made is not evidence based and proportionate.

1.10 Equality Impact Assessment

- 1.10.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.11 Recommendations

- 1.11.1 That members determine the application carefully, considering the application along with any representations made and take such steps as the Panel consider appropriate for the promotion of the Licensing Objectives

Background papers:

Licensing Act 2003
Licensing Act Guidance
Statement of Licensing Policy

Contact:

Anthony Garnett 6151
Katie Rigg - 6027

Adrian Stanfield
Director of Central Services and Monitoring Officer