

DEPARTMENT OF ENVIRONMENT AND LEISURE

ORIGINATING SECTION: PUBLIC PROTECTION SERVICE

REPORT TO: LICENSING ACT 2003 PANEL

Date: 01:11:2016

**TITLE : APPLICATION FOR A PREMISES LICENCE-
Savoy Self Serve Garage, Savoy Filling Station Blackburn Road Darwen
Lancashire BB3 1ET**

1.	<u>PURPOSE OF REPORT</u>
1.1	For members to consider an application for a premises licence in respect of Savoy Self Serve Garage, Savoy Filling Station Blackburn Road Darwen Lancashire BB3 1ET.
2.	<u>BACKGROUND</u>
2.1	The Licensing Act 2003 provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by the Licensing Committee. The Licensing Committee may delegate these functions to sub-committees. The Council's constitution has been amended to incorporate this.
2.2	The Statement of Licensing Policy indicates how the licensing authority approaches its various functions.
2.3	Where under the provisions of the 2003 Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters will be dealt with by officers.
2.4	The Licensing Committee will receive regular reports on decisions made by officers so that they maintain an overview of the general situation.
2.5	Each application that comes before this committee will be treated on its own merits, and this licensing authority will take its decision based upon: <ul style="list-style-type: none">● The merits of the application● The promotion of the four licensing objectives● The policy of the licensing authority, a copy of which can be obtained from the Public Protection Service, 3RD Floor, Old Town Hall, Blackburn, BB1 7DY.● The guidance issued by the Secretary of State in March 2015 under section 182 of the Licensing act 2003.

<p>3</p> <p>3.1</p> <p>3.2</p> <p>3.3</p>	<p><u>DETAIL</u></p> <p>Application has been made by Motor Fuel Ltd in respect of the Savoy Self Serve Garage, Savoy Filling Station Blackburn Road Darwen Lancashire BB3 1ET for a premises licence under the Licensing Act 2003. (see appendix 1)</p> <p>The licence sought is to permit the sale of alcohol each day between 06.00 am and 23.00 pm the following day. To allow the premises to remain open for 24 hours.</p> <p>To provide hot food and refreshment after 23.00 pm until 05.00 am the following day.</p>
<p>4</p> <p>4.1</p> <p>4.2</p> <p>4.3</p> <p>4.4</p> <p>4.5</p> <p>4.6</p>	<p><u>CONSULTATION</u></p> <p>All responsible authorities have been consulted, advertisements have been displayed in accordance with the Act,</p> <p>There have been six objections submitted and a petition has been received from residents in the area. They have raised the objection under the public nuisance objective and the crime and disorder (see appendix 2 – objections and petition).</p> <p>No objections have been received from any of the other relevant authorities, however conditions requested by licensing enforcement under the licensing objective of protection of children have been accepted by the company (see appendix 3)</p> <p>It has been determined that all objections from the public and relevant comply with Section 35(6) Licensing Act 2003</p> <p>The Act prohibits the sale of alcohol from premises used primarily as a garage, however in certain circumstances licences to sell alcohol at petrol stations can be considered provided the licensing authority considers that the premises are not used primarily as a garage. Premises are ‘used as a garage’ if they are used for one or more of the following: • the retailing of petrol; • the retailing of derv; • the sale of motor vehicles; and • the maintenance of motor vehicles. (section 176 of the Act). The premises are retail outlet with a garage forecourt (see appendix 4)</p> <p>The applicant was given notice under Regulation 7(1)(d) Licensing Act 2003 (Hearings Regulations) 2005.</p>
<p>5</p> <p>5.1</p>	<p><u>POLICY CONSIDERATIONS</u></p> <p>Premises Licences</p> <p>An application can be made to the Council for any place within its area to be used for any licensable activity or qualifying club activity. The application must be accompanied by: a) The required fee; b) The appropriate application form (including an Operating Schedule); c) A plan of the premises; and d) If it is intended to sell alcohol, a form of consent given by the person whom the applicant wishes to have specified in the Premises Licence as the Designated Premises Supervisor. Incomplete applications will be returned to the applicant.</p> <p>The Act requires applicants to notify the ‘responsible authorities’ for the Blackburn with Darwen’s Licensing Authority area. A copy of the application must be sent to each of the responsible authorities. (listed in Appendix 2 the Councils’ Statement of Licensing Policy)</p>

The Application must include details of:

- a) The relevant licensable activities which are to be conducted on the premises;
- b) The times during which the applicant proposes that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons if applicable); Any other times that the premises are to be open to the public
- c) Where the applicant wishes the licence to have effect for a limited period, that period;
- d) Where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor and a copy of his or her Personal Licence;
- e) Where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
- f) An Operating Schedule giving details of the steps which the applicant proposes to take to promote the licensing objectives. In considering the steps to be taken to promote the licensing objectives the applicant should give consideration to the 'Pool of Model Conditions' given at Appendix 3 of the Statement of Policy.

When preparing their applications applicants will be expected to undertake a thorough risk assessment for each of the four licensing objectives. Applicants should be aware that applications which do not show that all relevant points have been addressed may result in a representation from the appropriate responsible authority.

Regulatory Reform (Fire Safety) Order 2005 – The Licensing Authority will not impose any licence condition where the order applies.

The Act prohibits the sale of alcohol from premises used primarily as a garage, however in certain circumstances licences to sell alcohol at petrol stations can be considered provided the licensing authority considers that the premises are not used primarily as a garage. Premises are 'used as a garage' if they are used for one or more of the following: • the retailing of petrol; • the retailing of derv; • the sale of motor vehicles; and • the maintenance of motor vehicles. (section 176 of the Act)

Where there is insufficient evidence to determine the primary use of the premises, the Licensing Authority will take steps (through enforcement activity or otherwise) to collect the evidence and may defer a decision until such evidence has been obtained.

Relevant Representations

Where representations are made about an application the Council will hold a hearing to consider them unless the Council, the applicant and everyone who has made representations agree that the hearing is not necessary. Representation must be 'relevant' to be considered. To be 'relevant', representations must be:

- a) About the likely effect of the granting of a Premises Licence or Club Premises Certificate on the promotion of at least one of the licensing objectives; and
- b) Made by 'other persons' or a 'responsible authority', have not been withdrawn and, in the case of representations made by 'other persons', are not, in the Council's opinion, frivolous or vexatious.

'Other persons' includes any of the following: Residents, businesses or associations that represent residents or businesses.

The Council will accept 'representations' which are in favour of an application and these will be included in the documentation submitted when there is a hearing, however, where only positive representations are received, no hearing will be held. Where there are concerns about the intimidation of residents who may have genuine concerns about an application, the Council will follow the published guidance of the Secretary of State. (the Guidance Para 9.14 – 9.18)

6	<u>THE THE LICENSING ACT 2003</u>
6.1	The Licensing Act 2003 requires you to have regard to the representations, and take such of the steps as you consider necessary for the promotion of the licensing objectives.
6.2	The steps you take are (a) to modify the conditions of the licence and/or to reject the whole or part of the application to vary the licence.
6.3	The conditions of the licence are modified if any of them are altered or omitted or any new condition is added.
6.4	You cannot however restrict the hours of the sale of alcohol to less than those authorised under the current Justice's Licence by virtue of Paragraph 11 Schedule 8 Licensing Act 2003.
7	<u>LEGAL IMPLICATIONS ARISING FROM THE REPORT</u>
7.1	Members are reminded that they must follow the rules of natural justice and they are bound by the code of conduct for elected members in licensing applications.
7.2	Members are reminded that they should have read or should hear all the facts prior to making a determination
7.3	Members are reminded of the consideration they should give to the Human Rights Act 1998, in particular Article 1 – the right to peaceful enjoyment of possessions, Article 6 – the right to a fair hearing, Article 8 – respect for private and family life and Article 10 – the right to freedom of expression.
8	<u>BACKGROUND PAPERS</u>
8.1	Appendices
8.2	Statement of Licensing Policy
8.3	The guidance issued by the Secretary of State in March 2015 under section 182 of the Licensing act 2003
8.4	The Licensing Act 2003.
9	<u>RECOMMENDATION</u>
9.1	That members consider the application for the variation of the Premises Licence.
10	<u>WARDS AFFECTED</u>
10.1	The premises are situated in the Earcroft Ward. None of the ward councillors are members of this sub committee.
11	<u>CONTACT OFFICER</u>
11.1	Penni McGinty Customer Support Officer Ext.5073

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DATE PREPARED

12.1

20 October 2016

