

LICENSING PANEL

Thursday, 16 August 2012 (10:15 am – 11:45 am)

PRESENT:

Councillor Winstanley (Chair); Councillors Irish and Scott

1. THE APPLICATION

The Clerk outlined the application made by ROK UK Limited for a premises licence for:

Chickenhall Service Station,
Bishopstoke Road,
Eastleigh.

The application was to permit them to sell alcohol on an off sales basis from 6am to 11pm 7 days a week. The Panel were advised that no representations had been received from the Responsible Authorities although the applicant had given their agreement to various conditions proposed by the Police.

The legal officer provided legal advice that the Panel should give particular attention to Section 176 of the Licensing Act 2003. Reference was made to the Section 182 guidance with regard to garages, in addition to giving consideration to the primary use of the premises and whether it was for use as a garage and the retail sale of petrol or for non-garage products and services and the question of the intensity of use. Recent case law was cited as follows:

QBD; R v Liverpool Crown Court, ex p Goodwin (1999) Licensing Review (July) 21, QBD.

R (on the application of Murco Petroleum Limited) v Bristol City Council (2010) EWHC 1992 (Admin), (2010) 174JP 425.

Shell v Leeds City Council (2012)

Kirklees v Bradley and Apollo (2012).

2. THE APPLICANT

Representing the applicant, Mr Jeremy Phillips accompanied by Helen Martin of ROK UK Ltd, Brian Cook the site manager and Corrigan Lockett presented the application to the Panel.

Mr Phillips confirmed the application was in respect of alcohol sales only and no late night refreshment was to be included. Historical problems of anti-social behaviour identified in the area had ceased since the garage was company owned, coupled with the fact that all sales after 7pm took place through a hatch window with doors to the actual shop closed.

The Panel were provided with further written details of the retail sales compared with the sales of fuel.

3. REPRESENTATIONS FROM RESIDENTS

Mr Fieldsend, owner of the local newsagents, attended and stated his main objection related to the adverse competition from a big company, together with his fears for a repeat of the anti-social behaviour previously experienced on this site.

4. THE DECISION

The Panel withdrew from the meeting to make their decision and invited the Clerk and Legal Adviser to join them.

The following decision was read out to the hearing when the Panel reconvened:

“The panel has considered very carefully all the evidence submitted both in the formal representations made and given orally today.

The Panel has considered the operating schedule submitted by the applicant, the Council’s Licensing Policy, all other statutory guidance and the additional conditions (as well as mandatory conditions) and consequently in the circumstances believes that the application should be **granted in full** subject to the additional conditions as agreed with the Police.

Legal advice was provided by the Authority’s Legal Adviser that consideration needs to be given with regard to Section 176 of the Licensing Act 2003. Reference was made to the Section 182 guidance with regards to garages, in addition to leading case law on how the Panel is to consider the primary use of the premises and whether this is for use as a garage and the retail of petrol or for non-garage products and services and the question of the intensity of use.”