

DECISION RECORD

Licensing Act 2003
(all section references in this record are references to the Act)

LICENSING AUTHORITY FOR BRISTOL

LICENSING (HEARINGS) SUB COMMITTEE MEETING HELD ON 18 September 2014

AGENDA TITLE

Conduct of a hearing into an application for the VARIATION of a licence made by Murco Petroleum Limited,
in respect of Murco Costcutter, 190 Hampton Road, Redland, Bristol BS6 6JA

MEMBERS PRESENT:

- 1 Councillor Abraham (Chair)
- 2 Councillor Davies
- 3 Councillor Woollacott

OFFICERS PRESENT:

Kate Burnham-Davies , Legal Adviser
Abigail Holman, Licensing Policy Adviser
Allison Taylor, Committee Clerk

REPRESENTATIONS RECEIVED FROM:

The Hampton Road And Cotham Hill Community Group
Simon Margetts And Emily Wolfe
Sgt Jonathan Derrick
Ms Liz Exley
Ms Abigail Shepherd
Clifton Down Community Association
Cllr Neil Harrison

Applicants, responsible authorities and relevant persons

Applicant

Chief Officer of Police (s.13(4)(a))

Fire Authority (s.13(4)(b))

Health and Safety Enforcing Authority (s.13(4)(c))

Local Planning Authority (s.13 (4) (d))

PARTIES & REPRESENTATIVE (IF ANY) in attendance

Luke Rogers – Murco
Roy Light – St John's
Chambers

Sgt. Jon Derrick

Not a party to this hearing

Not a party to this hearing

Not a party to this hearing

Environmental Health (Pollution Control) (s.13 (4) (e))	Not a party to this hearing
Social Services Authority (s.13 (4) (f))	Not a party to this hearing
Any other relevant Licensing Authority (s.13 (4) (g))	Not a party to this hearing
Weights and Measures Authority (s.13. (4) (i))	Not a party to this hearing
Relevant persons who are persons living in the vicinity of the premises (s.13 (3) (a))	Not a party to this hearing
Relevant persons who are a body representing persons living in that vicinity (s.13 (3) (b))	Abigail Shepherd representing Simon Margatts and Emily Wolfe, Redland & Cotham Amenities Society, Clifdon Down Community Assoc. Local Neighbourhood Group and the Hampton Road & Cotham Hill Community Group Assoc. The Committee also had regard to 2 further representations whose authors were not in attendance.
Relevant persons who are persons involved in a business in that vicinity (s.13 (3) (c))	Not a party to this hearing
Relevant persons who are bodies representing persons involved in such businesses (s.13 (3) (d))	Not a party to this hearing

RECORD OF HEARING:

The authority made a contemporaneous hand written (long hand) record of the hearing. Any party wishing to receive a typed transcript should contact Councillor Support Officer (Democratic Services, City Hall, College Green, Bristol) for information regarding the arrangements for transcribing and any charge levied where the authority produces the same. Set out below is a summary of the reasons for the decision, in the event of an appeal the Licensing Authority reserves the right to elaborate on the reasons.

DECISION MADE:

1. (a) That the application be GRANTED subject to the conditions on the licence as modified as follows:
 - (i) the alteration of conditions as to hours for licensable activities as details in the standard times and the non-standard timings below; **as to the permitted licensable activities as detailed in the standard times below**; and the alteration of conditions the revised wording of which is as set out in Annex 2 below.
 - (iii) The addition of conditions as detailed in Annex 3 below.
 - (iv) The mandatory conditions included in the licence under section 19, 20, 21 of

the Act.

SUMMARY OF VARIATION APPLICATION CONSIDERED AT THIS HEARING

1. Extend the hours for the sale of alcohol.
2. Remove restricted hours on Christmas Day and Good Friday.
3. To add the provision of late night refreshment.
4. New plan enclosed showing minor alterations to premises.

Proposed times for sale of alcohol: Supply of alcohol: 06:00 to 00:00

Proposed times for late night refreshment: 23:00 to 00:00

Proposed Opening hours: 00:01 to 00:00

Accordingly the licence is to be issued subject to the following

STANDARD TIMES

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities.

Sale of Alcohol	Monday to Sunday 06:00 - 00:00
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Supply of alcohol:

Supply of alcohol authorised for off the premises only.

The opening hours of the premises

Monday to Sunday	00:01 to 00:00
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NON STANDARD TIMINGS:

Non standard timings not applicable.

LATE NIGHT REFRESHMENT

23:00 to 00:00

Annex 1 – Mandatory Conditions

Mandatory condition Licensing Act 2003 - Door Supervision

Where this licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

(As required by s21 Licensing Act 2003 as amended by the Violent Crime Reduction Act)

Mandatory condition Licensing Act 2003 - Supply of Alcohol

1.No supply of alcohol may be made under the premises licence-

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

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

Mandatory Licensing Conditions - Additional conditions imposed by Policing and Crime Act 2009

Conditions numbered 1,2, and 3 shall be in force as of the 6 April 2010

Conditions 1, 2, 3 and 5 shall not apply where the premises licence authorises sale by retail or supply of alcohol only for consumption off the premises.

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Conditions numbered 4 and 5 shall be in force as of the 1 October 2010

4.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that-

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the Operating Schedule

(in respect of variation applications only conditions attached to licence from previous operating schedule)

Conditions consistent with Operating Schedule submitted 08.05.2006

Intoxicating Liquor shall not be sold in an open container or be consumed in the licensed premises.

Access to the premises by children is not restricted or prohibited.

Annex 3 – Conditions attached after a hearing by the licensing authority

AVON AND SOMERSET CONSTABULARY

1.CC01 CCTV shall be in use at the premises.

(i) Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police. Where a CCTV system is to be installed it shall be fully operational prior to any licensable activity taking place. Where existing CCTV systems are to be replaced or extended the replacement or extension to the system shall be concluded and the CCTV system shall be fully operational before any licensable activities take place

(ii) (ii) The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

(iii) The premises licence holder shall ensure images from the CCTV are retained for a

period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority

(iv) The correct time and date will be generated onto both the recording and the real time image screen.

(v) If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

(vi) The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a constable.

(vii) There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all hours the premises is open to the public

2. SA01 All staff to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instance when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by an authorised officer of the Licensing Authority or a constable.

3. SA02 (a) An approved proof of age scheme shall be adopted, implemented and advertised within the premise such as "Challenge 25" whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

(b) Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least A5 size at the entrance to the premises and where practicable at each point of sale.

4. SA03 The premises licence holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an 'incident/refusals logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required.

Annex 4 – Plans

Plan as submitted to the Licensing Office on 30 July 2014.

Plan dated July 2014. Drawing Ref LICENSING SOLUTIONS CJM 14/AUG/03

2. That the Variation here agreed will take effect immediately.
3. That in accordance with Section 23 of the Act a duly authorised officer be directed to give Notice of determination to:
Murco Petroleum Limited
The Chief Officer of Police

And the following bodies that made representations:
The Hampton Road And Cotham Hill Community Group
Simon Margatts and Emily Wolfe
Sgt Jonathan Derrick
Ms Liz Exley
Ms Abigail Shepherd
Clifton Down Community Association
Cllr Neil Harrison

REASONS FOR DECISION:

The following paragraphs summarise the sub-committee's reasons for granting the application and for modifying the conditions on the Licence.

The sub-committee carefully considered the representations together with the information provided for the Hearing and that received during it. The sub-committee had regard to the Secretary of State's guidance to Licensing Authorities and the Authorities own statement of licensing policy.

The committee's decision was particularly influenced by the consideration of the promotion of the licensing objectives concerning the prevention of crime and disorder, the prevention of public nuisance, public safety and the protection of children from harm.

The Chair welcomed parties to the hearing, made introductions and explained procedure. The Committee heard from all parties and clarifications were made. All parties withdrew for Committee deliberation.

The Committee, having carefully deliberated, agreed to grant the application as sought and subject to conditions agreed with Responsible Authorities.

The Committee noted all written representations and those made by the Relevant Person in attendance but found that there was no evidence to lead to these conclusions as the premises had operated for 15 years now without a problem.

They also noted that none of the local residents had made a representation despite living nearby.

The Committee gave great weight to the Police representation that subject to conditions proposed, there were no issues with the application and were content that it be granted and that it was not in a problematic area.

The Committee also had regard to paragraph 6.5.3 of the Council's Statement of Licensing policy regarding retail outlets selling alcohol in line with their hours of operation unless there was good reason, based on evidence, not to. The Committee could see no evidence and therefore would not depart from their policy.

SIGNED:

CHAIR

Name: Councillor Abraham