

**APPLICATION FOR A VARIATION OF PREMISES LICENCE AT: SHELL
ALLESTREE, DUFFIELD ROAD, DUFFIELD, DERBY. DE22 2DG**

RECOMMENDATION

To consider the application and relevant representations.

To decide whether to:

- modify conditions consistent with the application for variation;
- exclude licensable activities from the licence;
- reject whole of the application; or
- reject part of the application.

SUPPORTING INFORMATION

MATTERS FOR CONSIDERATION

- 2.1 An application for a variation of premises licence was received on 5 January 2006 from Shell UK Oil Products Ltd. A copy of the application is attached at **Appendix 2**.
- 2.2 **The variation applied for is:** extra hours for the sales of alcohol and for the provision of late night refreshment.
- 2.3 The relevant licensable activities currently are:
Sales of alcohol (for consumption off the premises only)
- 2.4 **The proposed licensed activities are:** off sales of alcohol and late night refreshment
- 2.5 The hours of licensable activities currently are:
Monday-Saturday 08:00-23:00, Sunday 10:00-22:30, Good Friday 08:00-22:30, Christmas Day 12:00-15:00, 19:00-22:30.

- 2.6 The proposed hours of licensable activities are:**
Sales of alcohol Monday-Sunday 07:00-23:00, Late night refreshment Monday-Sunday 23:00-05:00
- 2.7 Other times the premises is to be open to the public:
Premises open 24 hours
- 2.8 The designated premises supervisor is John Barker.
- 2.9 The supply of alcohol is for consumption off the premises only.
- 2.10 The steps the applicant intends to take to promote licensing objectives are outlined in the operating schedule attached at **Appendix 2**.
- 2.11 A plan of the premises is attached at **Appendix 3**
- 2.12 A consent form signed by the Designated Premises Supervisor is attached at **Appendix 4**
- 2.13 A relevant representation has been received from Mr & Mrs Guard, who are interested parties. A copy of which is attached at **Appendix 5**
- 2.15 A location map is attached at **Appendix 6**
- 2.16 The sale by retail of alcohol; the supply of alcohol by or on behalf of a club to a member of the club; the provision of regulated entertainment; and the provision of late night refreshment must be licensed under the Licensing Act 2003.
- 2.17 The Committee is obliged to determine this application with a view to promoting the licensing objectives, which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- In all applications relating to premises licences the City Council expects applicants to specify methods by which they will promote the four licensing objectives in their operating schedules.
- 2.18 In making its decision, the Committee is also obliged to have regard to national Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Licensing Policy.
- 2.19 In considering an application the Council must consider the application itself and any relevant representations.
- 2.20 The Council has a duty to act in a manner that is compatible with the Human Rights Act 1998.

- 2.21 A Licence is regarded as property for the purposes of the Human Rights Act 1998. Article 1 of the First Protocol states that:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

- 2.22 The Committee must also take into account the effect on local residents. Article 8 states:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

- 2.23 Three stage test to be applied:

2.23.1 Is the interference in accordance with the law?

2.23.2 Is the interference necessary in a democratic society in pursuit of one of the legitimate aims set out above?

2.23.3 Is the decision proportionate ie. Striking a fair balance between the demands of the general interests of the community and the requirement to protect the individual's fundamental rights?

Premises History

- 3.1 The premises converted an existing justices' Off licence to a new premises licence under the Licensing Act 2003 on 24 November 2005.

For more information

contact:

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Background papers:

None

List of appendices:

Appendix 1 – Implications

Appendix 2 – Application

Appendix 3 – Plan

Appendix 4 – Consent Form

Appendix 5 – Relevant Representation

Appendix 6 – Location Map

IMPLICATIONS

FINANCIAL

1.1 If the application is refused, the applicant will forfeit the fee. Should they wish to re-apply for a Licence at a later date a fresh fee will have to be paid.

LEGAL

2.1 Any party to the decision or anyone who has made a relevant representation [including a responsible authority or interested party] in relation to the application may appeal to the Magistrates Court within 21 days of notification of the decision. On appeal, the Magistrates Court may:

2.1.1 dismiss the appeal; or

2.1.2 substitute the decision for another decision which could have been made by the Council; or

2.1.3 remit the case to the Council to dispose of it in accordance with the direction of the Court; and

2.1.4 make an order for costs as it sees fit.

PERSONNEL

3.1 None directly arising.

EQUALITIES IMPACT

4.1 None directly arising.

CORPORATE THEMES AND PRIORITIES FOR CHANGE

5.1. The Council's Statement of Licensing Policy used by Licensing Panel in determining applications contribute to the Council's objectives of **protecting and supporting people** and **a healthy environment**.