

LICENSING SUB-COMMITTEE

22 OCTOBER 2015

(10.30 am - 11.45 am)

PRESENT Councillor Linda Taylor (in the Chair), Councillor Tobin Byers  
and Councillor Philip Jones

Also present:

Responsible Authorities:

Sgt Peter Sparham - Metropolitan Police

Elizabeth MacDonald, Barry Croft - Licensing Authority

Guy Bishop - Legal Adviser

Applicant's representative:

Chris Mitchener

Local Residents:

Mr and Mrs Redmond

Hilary Gullen – Democratic Services



All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at [www.merton.gov.uk/committee](http://www.merton.gov.uk/committee).

1 APPOINTMENT OF CHAIR (Agenda Item )

Councillor Linda Taylor was appointed to the Chair

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 1)

There were no declarations of interest.

3 MOTOR FUEL LTD, CONVENIENCE STORE, 7 ROWAN ROAD, STREATHAM, SW16 5JF (CONTINUED) (Agenda Item 2)

Cllr Taylor re-opened the hearing, made introductions and introduced the procedure. The accuracy of papers was agreed.

Mr Redmond gave his objections which were based on the proximity of his house to the premises in question. Mr Redmond explained that when the site previously opened 24 hours a day there were constant problems with drinking, motor bikes, prostitutes, and cars being driven badly. Mr Redmond questioned the concept of selling alcohol at petrol stations, as it would increase the incidents of drink driving. Mr Mitchener had no questions or response for Mr Redmond.

Mr Mitchener gave the panel information relating to the premises, in that there can already be trading 24 hours per day, but that was not under question being a planning matter. The issues for consideration were the premises licence for alcohol and the late night refreshment.

Mr Mitchener illustrated the situation regarding late night refreshment by comparing cold coffee sales at the premises with hot sales at Starbucks. Mr Mitchener stated that the issue with street drinking could not be linked to the premises as alcohol was not yet sold there.

There were no councillor questions.

Mr Redmond expressed concern that the problems related to street drinking would increase if the licence was granted, and there would be an increase in other problems such as litter.

With regard to primary usage, Mr Mitchener confirmed he had provided the figures exactly as requested by the Licensing Sub-Committee at the previous hearing. Some figures were not available, such as the sterling value for mixed fuel and food sales. Mr Mitchener had the information with him to back up the figures given.

Mr Mitchener gave the committee some historical information about case law, describing the Green case, the Goodwin case and the Murco case.

Guy Bishop clarified that it was up to the local authority to decide how to make the assessment of primary use, either by footfall or income revenue and this was Mr Mitchener's view.

Mr Mitchener explained that the shop would be fully refitted and rebranded, and would eventually be a retail premises on a petrol forecourt, as with the Costcutter/BP site in Morden. Mr Mitchener said that the premises cannot sell alcohol yet, but only in the future when the store has been refitted, and re-iterated that the store can already trade across 24 hours.

Mr Redmond commented that they had not given consideration to residents, and that there were already 10 convenience stores in the area.

Cllr Jones asked for clarification of the data on page 9, which did not support the application as it stands, but in the future.

Mr Mitchener stated the figures were a projection.

It was suggested that the application had been submitted too early, but Mr Mitchener disagreed and compared it to a restaurant applying for a future licence.

Mr Mitchener went on to explain that the takings were already up by £420 per week, and that the refit would have a huge impact on this. He stated that the company was geared around retail and not fuel, and that there was a massive catchment in terms of retail. In response to a question from the panel, Mr Mitchener stated that the refitted store would sell more 'fridge' items than car items.

In response to Cllr Byers' questions about the data, Mr Mitchener confirmed that the customer count is the total for all three, ie including dual retail/fuel customers. Mr Mitchener also confirmed that the figures given on page 42 were based on premises without alcohol sales. Cllr Byers also noted the sterling value hadn't changed much from the previous figures given, yet the footfall had increased from 19% to 51%.

Mr Mitchener explained that the store already attracts people to the site, so it could convert from fuel to shop sales, and acknowledged that they would not be able to use the licence (if granted) until the figures demonstrated a primary use involving retail sales over fuel sales.

Mr Redmond summarised that he felt the assessment of income on retail was over-rated, and that the shop sales were a 'drop in the ocean' in comparison to the fuel figures.

Mr Mitchener summarised that the panel had heard about issues in the area, but that the premises were already entitled to trade for 24 hours. They were fully aware of their responsibilities regarding alcohol sales, and that there was no evidence that late night refreshment was a problem or that alcohol sales would be a problem.

The panel went into closed session at 11am.

The hearing re-adjourned at 11.30am and the chair gave the following decision:

That the committee had decided to refuse the application on the following grounds:

Based on the evidence put forward either from footfall or revenue, the committee is concerned that the primary use of the premises is as a garage rather than a retail establishment and therefore alcohol cannot be sold.

The reasons are set out in the determination notice, being that:

The application is premature as the refurbishment and livery change is yet to occur and there is no track record of being a convenience store operation as yet.

The licensing sub-committee was concerned that the initial data evidence was not related to this store. The new data evidence shows footfall for retail at approximately 17% (page 9 Supplemental agenda) so the footfall was predominantly fuel only, whilst the prospective footfall data (page 42 agenda) shows approximately 51% but the sales data is broadly comparable in both the new data and the proposed data at only approximately 7%.

Late Night Refreshment: the licensing sub-committee considered the late night refreshment element of the application to decide if it could be provided separately notwithstanding a refusal for alcohol related sales. However, even with the proposed conditions, the licensing sub-committee felt that the use of the hatch, slamming of car doors and loud music, and customers / youths loitering, based on the evidence of residents, showed that the premises is already noisy and in promoting the licensing objectives the licensing sub-committee couldn't see that it would assist matters.

After a period of trading after the refit, the situation may be different and the applicant could re-apply with up-to-date data and a good record of trading, without incident or nuisance to residents.