

Committee: **Licensing Sub Committee**

Date: **Tuesday 14 December 2010**

Time: **11.00 am**

Venue **Bodicote House, Bodicote, Banbury, OX15 4AA**

Membership

Councillor G A Reynolds Councillor Lawrie Stratford Councillor Rose Stratford

AGENDA

1. Constitution of the Sub Committee

The Membership of the Sub-Committee for this meeting will be Councillors G.A. Reynolds, Lawrie Stratford and Rose Stratford.

Please contact Natasha Clark (01295 221589) to tender apologies.

Note: Declaration of Interests: Any Member with a prejudicial interest will not be able to participate in the hearing, and should therefore notify the Head of Legal and Democratic Services in advance so that arrangements may be made for an alternate Member to attend.

2. Premise Licence Determination Hearing (Pages 1 - 24)

Report of Head of Safer Communities, Urban and Rural Services

Summary

To provide an outline of an application to for the grant of a Premises Licence in relation to The Cock Horse Service Station, 98 Warwick Road, Banbury and detail the representations received from Responsible Authorities and Interested Parties that has resulted in the need for a hearing to determine the application.

Recommendations

There is no recommendation. In considering the representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

- 1) approve the application for the grant of a premises licence as submitted
- 2) reject the application for the grant of premises licence in whole or part
- 3) place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

Information about this Agenda

The agenda, reports and associated documents for the above hearing together with the Licensing Hearing Procedure are available at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA or on the Council's web site www.cherwell.gov.uk;

The Council and its Committees and Sub-Committees are required to consider the implications of the Crime and Disorder Act 1998 and the Human Rights Act 1998 when exercising their functions.

Queries Regarding this Agenda

Please contact Natasha Clark, Legal and Democratic Services natasha.clark@cherwell-dc.gov.uk (01295) 221589

Mary Harpley
Chief Executive

Published on Monday 6 December 2010

Licensing Sub Committee

Premise Licence Determination Hearing

14 December 2010

Report of Head of Safer Communities, Urban & Rural Services

PURPOSE OF REPORT

To provide an outline of an application to for the grant of a Premises Licence in relation to The Cock Horse Service Station, 98 Warwick Road, Banbury and detail the representations received from Responsible Authorities and Interested Parties that has resulted in the need for a hearing to determine the application.

This report is public

Recommendations

There is no recommendation. In considering the representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

- 1) approve the application for the grant of a premises licence as submitted
- 2) reject the application for the grant of premises licence in whole or part
- 3) place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

Executive Summary

Introduction

- 1.1 On 21 October 2010 the Licensing Authority received an application for the grant of a premises licence to permit Late Night Refreshment and the supply of alcohol in relation to The Cock Horse Service Station, 98 Warwick Road, Banbury.
- 1.2 During the consultation period the Licensing Authority received letters of representation from a number of Interested Parties living in the vicinity of the premises.
- 1.3 In addition, representation was also received from Thames Valley Police.

Proposals

- 1.4 The applicant has proposed to provide Late Night Refreshment from the premises at the following times:
 - Monday to Sunday from 11.00pm to 05.00am the following morning
- 1.5 The proposal is for indoors only
- 1.6 The applicant has proposed to supply alcohol from the premises at the following times:
 - Monday to Sunday from 00.00am to 11.59pm
- 1.7 The proposal is for consumption off the premises only

Background Information

- 2.1 Late Night Refreshment under the Licensing Act 2003 is the provision of hot food and drink between the hours of 11pm and 5 am, to members of the public on or from any premises whether for consumption on or off the premises.
- 2.2 The Cock Horse Service Station situated at 98 Warwick Road, Banbury is currently able to provide hot food and hot drink outside of hours that require licensing.
- 2.3 As part of the application requirements, the applicant must submit a plan of the premise. A copy of the plan referred to is attached as Appendix 1.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The Licensing Act 2003 states that all licensing matters must promote the four Licensing Objectives, they are:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm
- 3.2 Representations received have stated concerns in relation to potential issues in respect of the prevention of crime and disorder and the prevention of public nuisance. Paragraph 3.3 details how the applicant intends to promote the four licensing objectives in general in addition to specifically related to promotion of the prevention of crime and disorder objective and the promotion of the prevention of public nuisance objective.

3.3

Objective	Applicants response
General	Alarm System, CCTV system with recording facilities, trained staff with recorded ongoing alcohol training regime, challenge 21 and proof of age initiative embraced, in store challenge signage, spirits display located behind counter, refusals system with refusals book
Prevention of crime and Disorder	Alarm System, CCTV system with recording facilities, trained staff, challenge 21, refusals system
Prevention of public nuisance	Staff trained to deal with situations, waste bins provided on the forecourt

3.4 In addition to the information at paragraph at 3.3, the applicant has also submitted further information in relation to the operations of the premises, including photographs of the layout of the premises along with precise plans. This information is attached at Appendix 1.

3.5 During the consultation period, representations were received from nine interested parties. Copies of these objections are attached as Appendix 2.

3.6 A plan of the area showing the location of the interested parties in relation to the premises concerned is attached at Appendix 3.

3.7 An objection was also received from Thames Valley Police. Thames Valley Police liaised with the applicant and negotiated changes to be made to the premises licence operating schedule. The negotiated changes included:

- Controlled access to the premise after 23.00. This is to control those who may use the premise as a warm place to hang around or as a meeting place for Youths.
- Litter
- Noise nuisance as this is a highly residential area.
- Our main concern is about the area at the back of the premise that has had previous problems with youths congregating and being anti social.

3.8 Thames Valley Police have agreed they have no objection should the conditions detailed above be attached to the licence. Details of the correspondence between the applicant and Thames Valley Police are attached at Appendix 4.

3.9 The relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003, which are applicable to the representations for this case are as follows:

Pages 82 – 85	Sections 10.11 – 10.18	Imposed Conditions, Proportionality, Duplication with other statutory provisions
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Page 85	Sections 10.19 – 10.21	Hours of Trading
Pages 18 – 21	Sections 2.1 – 2.18	Crime and Disorder
Pages 23 – 25	Sections 2.32 – 2.40	Public Nuisance
Pages 133 – 137	Annex D	Part 4. Conditions relating to the prevention of Crime and disorder
Pages 144 – 145	Annex D	Part 4. Conditions relating to the prevention of public nuisance

Cherwell District Council Statement of Licensing Policy:

Pages 15 – 17	Policies LH1 – LH8	Sections 5.1 – 5.7	Licensing Hours
Pages 21 - 23	Policies LA4 – LA6	Sections 7.3.1 – 7.3.10	General Prevention of Public Nuisance including Addressing Local Concerns and Management and Control
Page 28 - 30	Policy PP9 – PP12	Sections 7.5.16 – 7.5.22	Late Night Refreshment including Take away food outlets – alcohol sales and Supply of alcohol (“Off Sales”)

Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council’s pool of conditions and are asked to bring them with them to the meeting.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One Approve the application for the grant of a premises licence as submitted

Option Two Reject the application for the grant of premises licence in whole or part

Option Three Place conditions on the grant of premises licence and/or require changes to the details of the permissions sought.

Consultations

Full consultation in accordance with the requirements of the Licensing Act 2003 was carried out for a period of 28 days ending at midnight on 18 November 2010

Implications

Financial: There are no financial implications of this report
Comments checked by Denise Westlake, Service Accountant, 01295 221982

Legal: The decision must comply with relevant legislation and Council Policy.
All parties have a right of Appeal to the Magistrates Court against the decision
Comments checked by Paul Manning, Solicitor, 01295 221691

Risk Management: There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.
Comments checked by Rosemary Watts, Risk Management & Insurance officer, 01295 221566

Wards Affected

Banbury Grimsbury and Castle

Document Information

Appendix No	Title
Appendix 1	Background Information and premises plans
Appendix 2	Interested Party objections
Appendix 3	Location of Interested Parties
Appendix 4	Responsible Authority correspondence
Background Papers	
Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council's pool of conditions and are asked to bring them with them to the meeting.	
Report Author	Claire Bold, Licensing Team Leader
Contact Information	01295 753741 claire.bold@cherwell-dc.gov.uk

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Licensing Solutions

235 Botley Road Burrridge Southampton SO31 1BJ

Telephone & Facsimile 01489 583932 – solutions@licensingolutions.org.uk

Premises Licence Application

on behalf of the

Mace Convenience Store

COCK HORSE SERVICE STATION LTD

98 WARWICK ROAD

BANBURY

OXON

OX16 2AB




a division of the Retail Services & Design Group

Background History

This site is a well established Texaco forecourt which has been in the family for ten years. The forecourt was upgraded in 2003 and the shop which has been updated progressively over the years is now to be re-developed to fully reflect the convenience format and realise the shops full trading potential.

The Shop

The 1000 sq ft shop has been designed to serve both the local community and those from further afield. Trading as a food based convenience store under the  convenience format a good range of fresh foods, groceries and other products are to be offered and the off licence is an important part of the service that such a shop is now expected to provide.

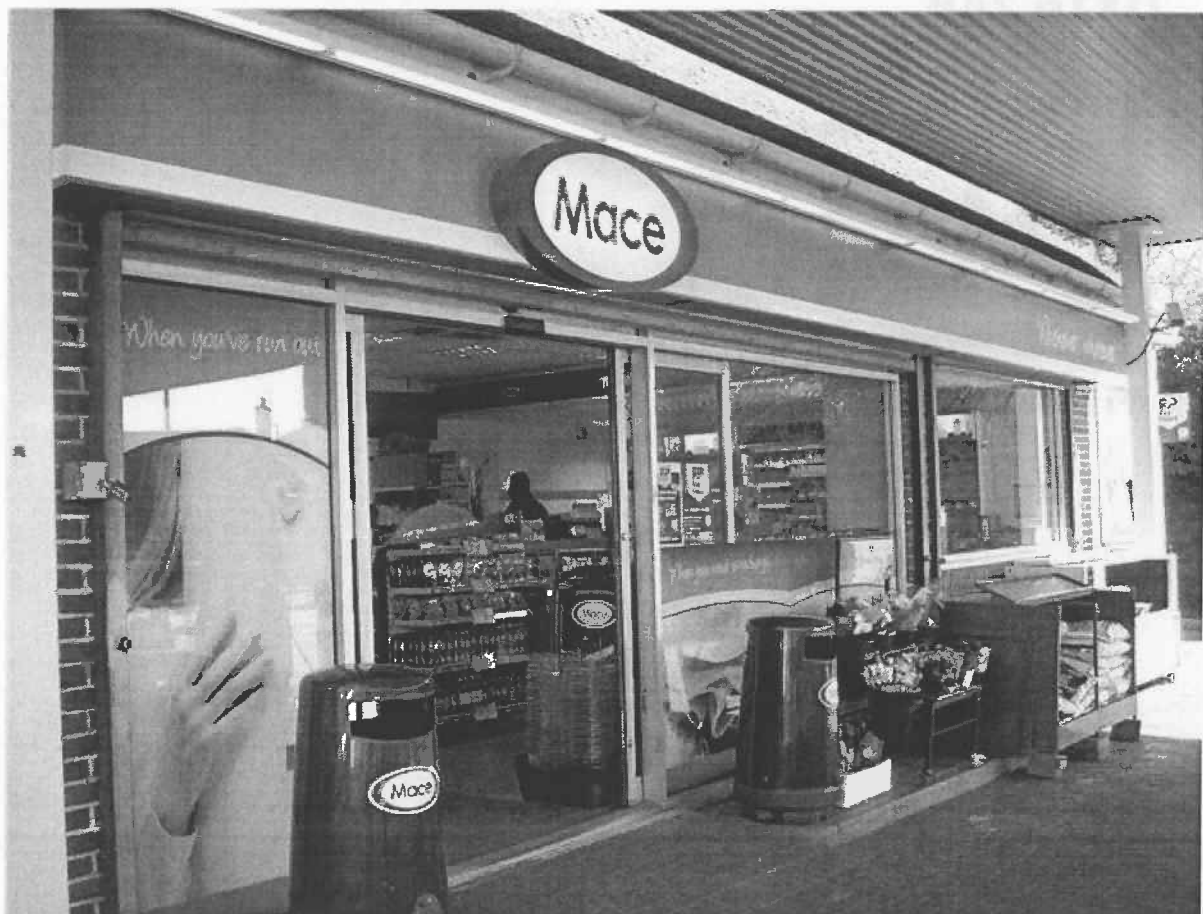
The Operation

The shop is operated by the applicants assisted by a team of staff who live locally. The DPS, trained and certified through the **NCPLH** scheme will be responsible for training all staff and keeping and maintaining ongoing training records utilising the **Off Licence Training System**. The **NO ID NO SALE Citizencard** refusals system will be used with records kept in the **Refusals Book** to tie in with the CCTV system. The **Challenge 21** trading initiative has also been embraced.

Security

The premises are secured by an **alarm system**. The **CCTV system** benefits from both internal and external cameras supported by a **24 hour recorder** and **library** can be made available to the Police if required.

Typical new style  forecourt shop front



Retail Trading Area

1000 sq ft

Trading Hours

	Opening Hours	Alcohol supply	Late Night Refreshment
Mon – Sat	00.00 to 24.00	00.00 to 24.00	23.00 to 05.00
Sun	00.00 to 24.00	00.00 to 24.00	23.00 to 05.00

Summary

-  trading format
- Refusals Book
- Secure storage facility
- CCTV with internal & external cameras
- Off-Licence Training System
- Alarm System
- 24 hour record with library

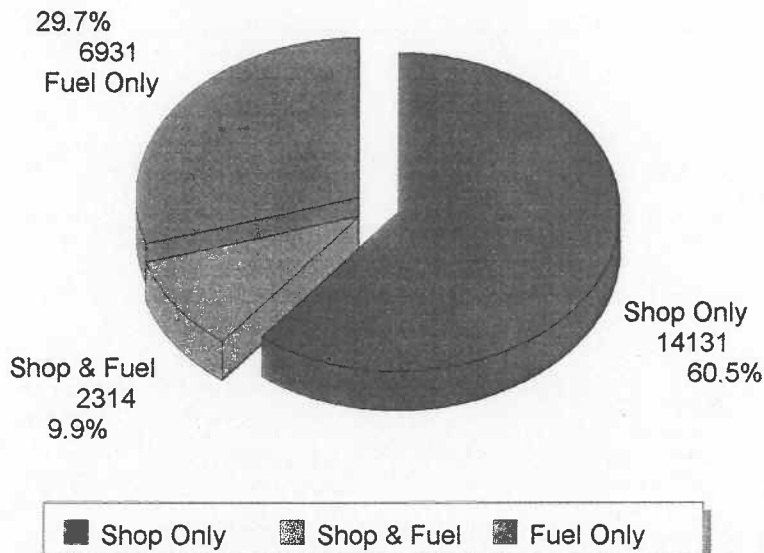
Typical  new image internal examples



Date	Fuel only	Shop only	Combined
01.09.2010	313	643	95
02.09.2010	328	667	112
03.09.2010	356	715	113
04.09.2010	335	751	123
05.09.2010	255	627	97
06.09.2010	315	519	103
07.09.2010	292	593	99
08.09.2010	294	609	82
09.09.2010	340	666	110
10.10.2010	363	731	139
11.09.2010	318	757	85
12.09.2010	278	605	93
13.09.2010	291	528	76
14.09.2010	296	605	105
15.09.2010	291	563	89
16.09.2010	315	668	111
17.09.2010	366	725	132
18.09.2010	318	751	99
19.09.2010	276	589	104
20.09.2010	344	564	111
21.09.2010	300	633	123
22.09.2010	347	622	113

6931 14131 2314

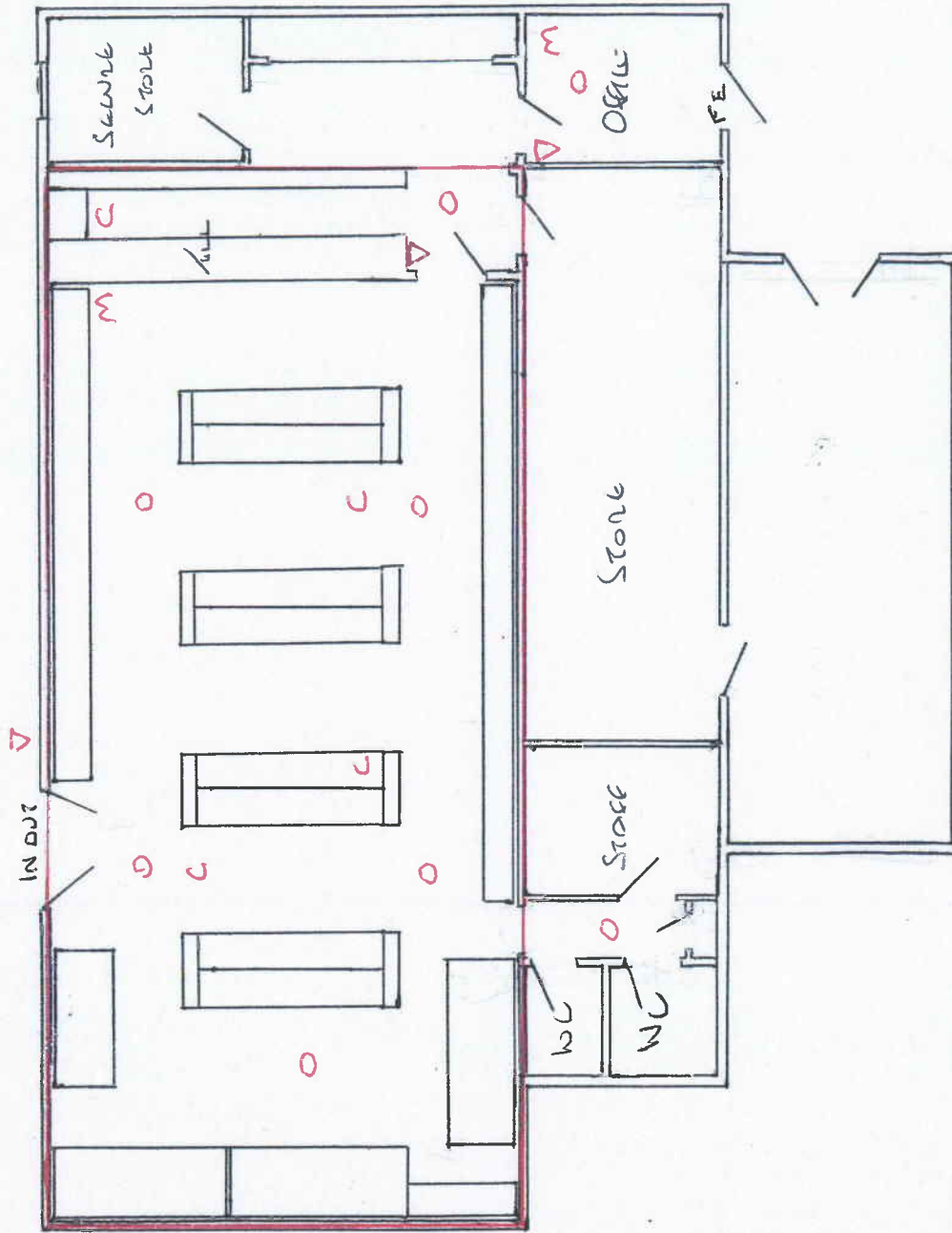
Analysis Graph of Customer Flow - Shop v Forecourt COCKHORSE - SEPTEMBER 1ST 2010 TO SEPTEMBER 22ND 2010 INCLUSIVE



**COCKHORSE SERVICE STATION Ltd, MACE CONVENIENCE STORE, 98 WARWICK ROAD,
BANBURY, OXFORDSHIRE OX16 2AB**

Shop Layout Scale 1:100 OCTOBER '10

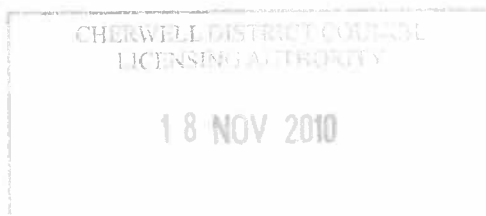
LICENSING SOLUTIONS CJM 076/10



Key:
 C CCTV Camera
 M CCTV Monitor
 O Extinguisher
 E/Lights

**ALCOHOL DISPLAY THROUGHOUT THE STORE WITHIN RED BORDER
 — BUT SPIRITS ONLY LOCATED BEHIND THE COUNTER**

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4 Belgrave Crescent
Banbury
OX16 0SY

16th November 2010

Licensing Officer
Bodicote House
Bodicote
BANBURY
OX15 4AA

Re: s.17 Licence Application of Cock Horse Service Station

Dear Sir or Madam,

We are writing in response to the application of 21st October 2010 made by Cock Horse Service Station for the granting of a licence to sell alcohol and late night refreshment, pursuant to section 17 of the Licensing Act 2003. We are among a number of local residents who wish to strongly object to this application as interested parties on the following grounds:

- 1) It will not prevent but increase crime and disorder; and
- 2) It will not prevent but increase public nuisance.

1. Prevention of Crime and Disorder

Belgrave Crescent and Boxhedge Road, on which the Cock Horse Service Station sits on a corner position, are residential streets with a number of other residential streets leading off from them.

There is a mixture of both families with young children and elderly people in sheltered accommodation living on these streets and in very close proximity to the service station. Although the area is residential, it acts as a thoroughfare from the town centre to other outlying streets and the Bretch Hill estate. Sadly, this has resulted in Belgrave Crescent and Boxhedge Road residents not being strangers to crime and disorder or antisocial behaviour, which have been reported to the local neighbourhood policing teams on numerous previous occasions. The fear among residents is that the granting of a licence to sell alcohol and late night refreshments will exacerbate this already serious problem.

It is our very real fear that by granting a licence to sell alcohol and late night refreshments, the pedestrian 'traffic' will increase and that much of it will be drunken and noisy.

Since moving in to our property in May 2007 we have directly experienced the following anti-social behaviour: two acts of criminal damage to our vehicles (December 2007 and September 2009); three acts of theft from our front garden and we have witnessed numerous other acts of anti-social

CHERWELL DISTRICT COUNCIL
LICENSING AUTHORITY

18 NOV 2010

behaviour. All these acts occur on weekend nights and seem to be directly linked to the alcoholic intake of the pedestrian traffic. Alcohol is a known disinhibitor and fuels aggression and establishments that provide late-night refreshments are so often source and scene of fights and affrays.

Our road is also used as a main route for families walking their children to the local St Mary's Primary School. Were the garage be permitted to sell drinks in glass bottles it is highly likely that these will end up smashed on the pavement along with the drinks cans that are already a nuisance.

This broken glass will not only cause a serious danger to children, but also to the many walkers of pets who use the road as a route to the Park. Cars which are parked on the street will also be at increased risk of punctures from the glass shards in the gutter or road.

2 Prevention of public nuisance

The service station already acts as a focal point for groups of young people to congregate and socialise around, particularly at weekends and this is most noticeable at the back of the service station on Belgrave Crescent/Boxhedge Road and in the disused car park to the rear of the service station. These groups have previously caused damage to the perimeter wall of the service station and are responsible for generating a large amount of noise and litter. The litter problem has been mentioned to our local councillor Alyas Ahmed. Again, it is feared that allowing the application to succeed would increase what is already a problem with litter and late night noise.

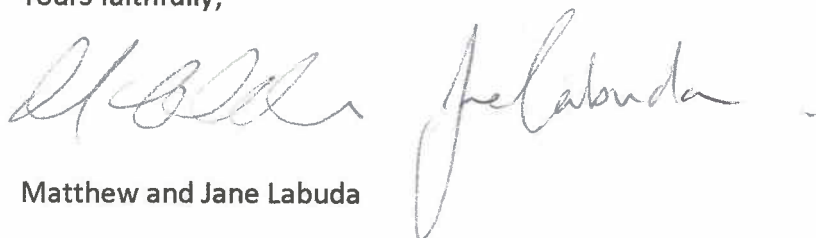
Our final concern is about the potential increase in traffic and noise levels that would occur with the granting of such an application, particularly from taxis and other vehicles using the service station on their way out of town and then driving at speed up Belgrave Crescent and Boxhedge Road.

Singing, shouting and the use of foul language is also a weekly occurrence on a Friday, Saturday and even Sunday evening as people leave the pubs in the town centre and walk home. We can only see that the selling of alcohol at the garage will exacerbate this type of behaviour as people seek to re-fuel with even more drink on their way home.

We are keen to know what the police's views are on this application, given the concerns about the anti-social behaviour in the area behind the service station and in general.

We cannot overstate our concerns and objection to the granting of this licence.

Yours faithfully,



Matthew and Jane Labuda

We the undersigned object to the granting of a licence to sell alcohol and late night refreshment, made by the Cock Horse Service Station pursuant to section 17 of the Licensing Act 2003.

Name and Signature:

Address:

Nicola + David McCarty

2 Belgrave Crescent
Banbury
OX16 0SY.

CHERWELL DISTRICT COUNCIL
LICENSING AUTHORITY
18 NOV 2010

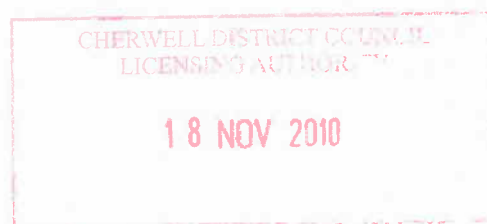
We the undersigned object to the granting of a licence to sell alcohol and late night refreshment, made by the Cock Horse Service Station pursuant to section 17 of the Licensing Act 2003.

Name and Signature:

FARZANA KARIM
FKarim

Address:

1, BELGRAVE CRESCENT
BANBURY



We the undersigned object to the granting of a licence to sell alcohol and late night refreshment, made by the Cock Horse Service Station pursuant to section 17 of the Licensing Act 2003.

Name and Signature:

Address:

MR. T. BARRETT 

JESSOPS COTTAGE, BOXHEDGE ROAD
BANBURY OX16 0BP

MRS R. BARRETT 

JESSOPS COTTAGE
BOXHEDGE ROAD
BANBURY
OX16 0BP.

CHERWELL DISTRICT COUNCIL
LICENSING AUTHORITY
18 NOV 2010

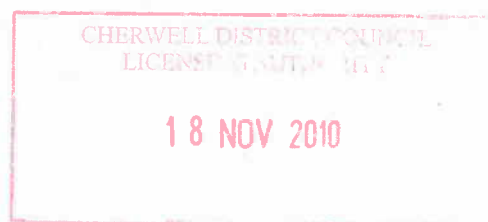
We the undersigned object to the granting of a licence to sell alcohol and late night refreshment, made by the Cock Horse Service Station pursuant to section 17 of the Licensing Act 2003.

Name and Signature:

MR & MRS EWERS
BOWER,
R G EWERS.

Address:

3 Belgrave Crescent
Banbury



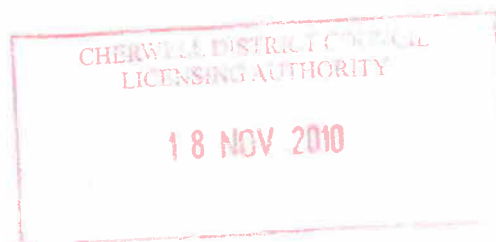
Jessops Cottage

Boxhedge Road

Banbury

OX16 0BP

16th November 2010



Licensing Officer

Bodicote House

Bodicote

Banbury

OX15 4AA

Re: s.17 Licence Application of Cock Horse Service Station

Dear Sir or Madam,

We are writing in response to the application of 21st October 2010 made by Cock Horse Service Station for the granting of a licence to sell alcohol and late night refreshment pursuant to section 17 of the Licensing Act 2003. We must say that our initial reaction was one of mirth believing that no one could possibly take this initiative seriously bearing in mind the track record of this establishment in the encouragement and generation of multiple anti-social activities including the congregation of drunk and disorderly youths, criminal damage, drug taking and dealing, consuming late night takeaways, discarding remains of takeaways over vehicles and the street, defecating, littering, foul language around children, graffiti, urinating, prolonged revving of engines, vehicles playing loud music, screeching tyres as cars roar away from the site at high speed and car horns sounding late at night and early morning. These are just some of the issues we have to begrudgingly tolerate which blight our lives. If we gave it a little more thought the list would be a lot longer. On reflection we realise we live in strange times and regrettably profit appears to remain a higher priority than considering the misery inflicted on others in the pursuance of self-gain. With that in mind we would like to object in the strongest terms possible to the potential granting of this licence.

Boxhedge Road and Belgrave Crescent residents are a group of positive contributors attempting to live their lives in a law abiding and socially responsible manner. Many are bringing up families in the face of adversity which, more often than not, is linked in no small way to the clientele of the Cock Horse Service Station. We regularly have to clear up detritus and litter as well as repair damage to vehicles and property created by the customers of this outlet. It is already a magnet for every type of miscreant known to man and the selling of alcohol will only exacerbate the existing problems and have an even more negative impact on our local environment and day to day lives.

On a number of occasions we have witnessed the underage selling of cigarettes and petrol so we are highly sceptical about the integrity and ability of this business to hypothetically retail alcohol responsibly. It is worth noting that Cock Horse Service Station staff routinely smoke on the premises, generally in the area used as an open air urinal, which is contrary to their own warning notices and it may be worth someone from your offices reminding them that petroleum spirits and a lit cigarette do not mix. The proprietor is generally a pleasant and well-meaning man however, on this occasion he is seriously misguided and has been ill advised. Unsurprisingly he is not a resident of the area. The preposterousness of this proposal is obvious to all and we are hoping that common sense will prevail.

Please confirm receipt of this correspondence and keep us informed of any developments pertaining.

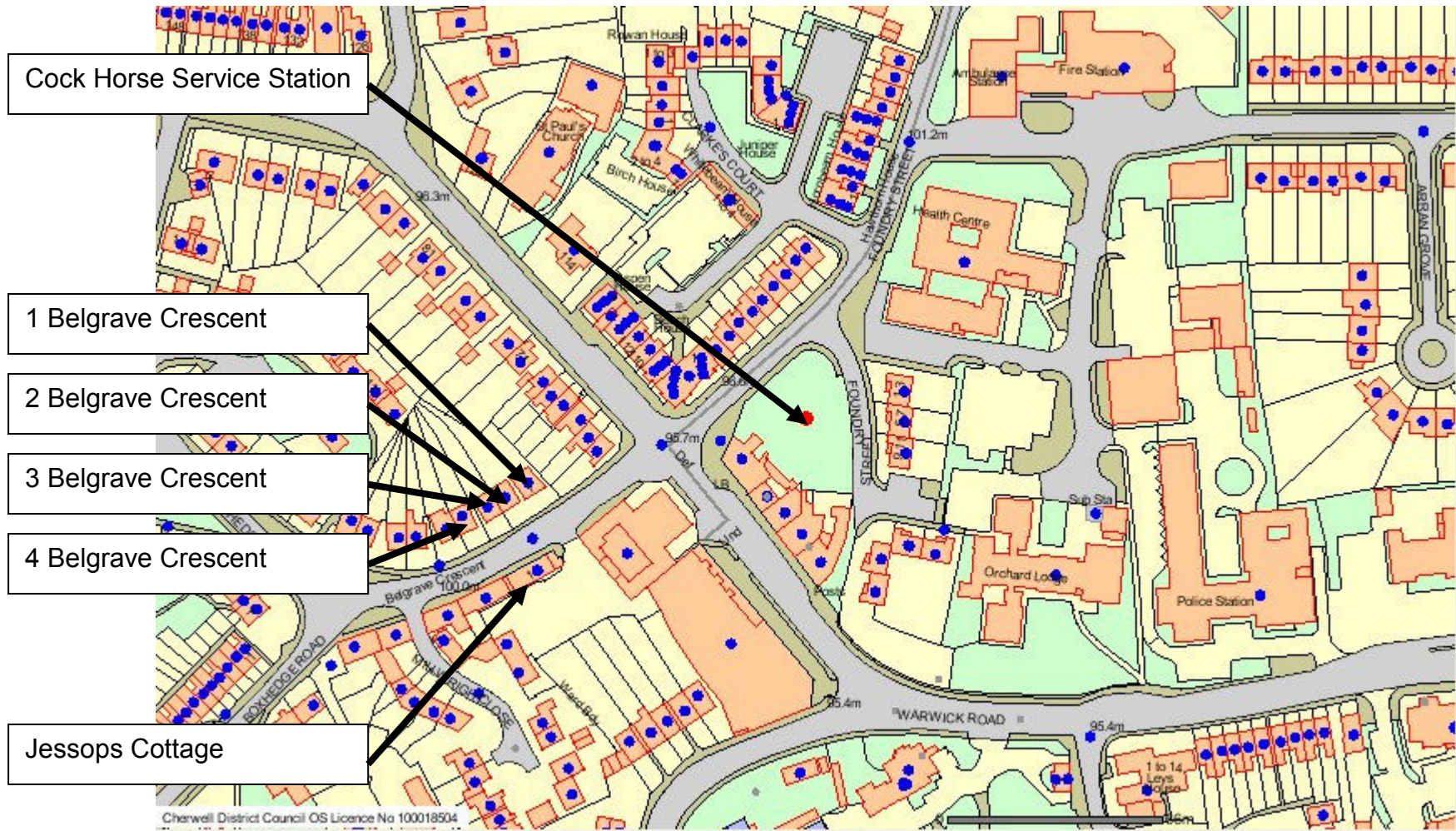
Yours faithfully,

Mr T Barrett



Mrs R Barrett





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Alexandria Gilbert

From: Morris Laura [Laura.Morris@thamesvalley.pnn.police.uk]
Sent: 18 November 2010 08:12
To: Licensing
Subject: FW: Cock Horse Service station

Thames valley police have no concerns if these parts are added to the operating schedule.

thanks

Laura Morris

Licensing Officer
Thames Valley Police
St Aldates
Oxford
OX1 1SZ

Tel: 01865 266 109
Mob: 07989 497 913

Email: laura.morris@thamesvalley.pnn.police.uk

Take pride and make a difference for Oxfordshire by :-

Seeing things through the eyes of others

Doing what we say we are going to do

Treating everyone with dignity and respect.

-----Original Message-----

From: licensingolutions@live.co.uk [mailto:licensingolutions@live.co.uk] **On Behalf Of** Licensing Solutions .
Sent: 17 November 2010 11:32
To: Morris Laura; licensing@cherwell-dc.gov.uk
Subject: RE: Cock Horse Service station

Hi Laura,

following on from our various conversations I have ascertained that Arrash is in fact on holiday for 4 weeks not two as he has gone to Iran to see family and will not return until December 2nd.

On this basis and in view of your time lines I have taken the liberty of talking to his father about your comments and can respond broadly in line with what we have already discussed.

We are happy to adjust our page 19 operating schedule to reflect the following :

Section A

Access to the shop to be at the discretion of the cashier between 23.00 and 06.00 controlled by electric shunt lock on the front door

Section D

Waste bins provided on the forecourt, signs displayed at exits asking customers to leave the premises quietly, camera to be fitted on the right hand side of the shop to cover the walkway from Boxedge Road.

As you will see this covers what we broadly agreed. The waste bins in Section D is already on the operating schedule as we discussed and we are happy to add the quietly signs that we agreed.

So far as the access is concerned this is already controlled at night and will continue.

In your e-mail you say that the area at the back of the premises has had previous problems. I am advised by the owner that there have been no issues for between two and three years. You and I had considered blocking the access off with a chain but I now undersatnd that there is effectively a walkthrough from Boxedge Road to the right of the shop when looking at it which would preclude blocking it.

As there have been no issues in the last two years it seems to me that putting a camera up to identify the culprits SHOULD anything arise in the future, with warnings being able to be issued as till staff will be able to see what is happening as well is a reasonable way forward to address the potential for trouble, which can be revisited if trouble actually arises.

Again as we discussed on Friday I apologise for the tardiness in responding but as you remembered I had advised that Arrash was on leave earlier in the month, I just had not realised that he was away for so long ! Please contact me on the mobile if you have any queries,

regards
Chris

Licensing Solutions - Chris Mitchener FBIItp
235 Botley Road, Burrridge, Southampton SO31 1BJ
mobile 07831 159450 fax 01489 583932
chris@licensingolutions.org.uk www.licensingolutions.org.uk

a division of the Retail Services & Design Group

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Subject: Cock Horse Service station
Date: Tue, 2 Nov 2010 16:31:05 +0000
From: Laura.Morris@thamesvalley.pnn.police.uk
To: chris@licensingolutions.org.uk

Good Afternoon

Ref cock horse service station

Please could you speak to your client about the following concerns that Thames Valley Police have with the above application and address the concerns as part of your operating schedule.

- Controlled access to the premise after 23.00. This is to control those who may use the premise as a warm place to hang around or as a meeting place for Youths.
- Litter
- Noise nuisance as this is a highly residential area.
- Our main concern is about the area at the back of the premise that has had previous problems with youths congregating and being anti social.

If you could please respond to the above queries I would be most grateful.

Regards
Laura Morris
TVP licensing officer
01865 266109

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