

**Licensing Sub-Committee – 4**

**19<sup>th</sup> April 2011**

**Report of the Director of Corporate Resources**

**Application to Vary a Premises Licence**

**Purpose of Report**

- 1 To consider the application for variation of the premises licence in respect of Murco Costcutter Express, Netherton Service Station, Halesowen Road, Netherton, Dudley, West Midlands. DY2 9PS.

**Background**

2. On the 19<sup>th</sup> September 2005, the Murco Costcutter Express, Netherton Service Station (Then known as the BP Supermart) was first issued with a premises licence, that licence was transferred on the 13<sup>th</sup> December 2007, and again on the 30<sup>th</sup> October 2008.
3. The current premises licence is issued for the following

**Sale of Alcohol**

Monday – Saturday	08.00 – 23.00
Sunday	10.00 – 22.30
Good Friday	08.00 – 22.30
Christmas Day	12.00 – 15.00
Christmas Day	19.00 – 22.30

- 4 The current premises licence holder is Murco Petroleum Limited and the current Designated Premises Supervisor is Mr P T Ganewatta.
- 5 On the 23<sup>rd</sup> February 2011, Licensing Solutions made application on behalf of Murco Petroleum Limited for the variation of the premises licence in respect of the premises now known as Murco Costcutter Express, Netherton Service Station, Halesowen Road, Netherton, Dudley, West Midlands. A copy of that application is attached to this report as Appendix 1.

6. The application had the following documents enclosed:-

- Correct Fee (£315.00)
- Plan of the premises:

7. The application is as follows:

Sale of Alcohol

Monday – Sunday      00.00 – 24.00

Late Night refreshment

Monday – Sunday      00.00 – 05.00  
   23.00 – 24.00

7. Confirmation that copies of the application form and supporting documentation have been served on the relevant authorities has been received.
8. Representations have been received from the Directorate of the Urban Environment (Food and Occupational Safety) a copy of that report is attached as Appendix 2.
9. Representations were also received from a local resident and have been forwarded to the applicant, interested parties and committee members in accordance with the Licensing Act 2003.
10. This application falls within the Council's recent responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.

**Finance**

11. There are no financial implications.

**Law**

12. The law relating to the granting of applications to vary premises licences is governed by the Licensing Act 2003, part 3, section 34.
13. Pursuant to section 35(3)(a) of the Licensing Act 2003, where a relevant authority has made representations, the Licensing Authority must:-
- Hold a hearing to consider item, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and,
  - Having regard to the representations, take such of steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.
  - The steps are:-

- To modify the conditions of licence;
  - To reject the whole or part of the application.
14. Pursuant to Section 36(1) and (4) of the Licensing Act 2003 where an application (or any part of an application) is granted or rejected under Section 35 of the Licensing Act 2003, the Licensing Authority must immediately give notice to that effect to :-
- the applicant;
  - any person who made relevant representations in respect of the application and
  - the Chief Officer of Police for the police area in which the premises are situated.
15. In pursuance of regulation 26(1) of the Licensing Act 2003 (Hearing Regulations 2005), the licensing authority must make its determination at the conclusion of the hearing.
16. In pursuance of schedule 5, section 4 if the Licensing Authority refuse to grant the application vary the premises licence, there is a right of appeal to the Magistrates' Court.
17. In pursuance of schedule 5, section 4(2) where the Licensing Authority grant an application to vary a premises licence in whole or in part. The applicant may appeal against any decision to modify the conditions of the licence under subsection 4(a) of section 35 of the Licensing Act 2003.
18. In pursuance of schedule 5 section 4(3) where a person who made relevant representations to the application desires to contend:-
- a) that any variation made ought not to have been made, or
  - b) that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified it in a different way, under subsection 4(a) of section 35 of the Licensing Act.

They have the right of appeal to the Magistrates' Court.

### **Equality Impact**

19. This report complies with the Council's policy on equal opportunities.
20. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
21. There has been no consultation or involvement of children and young people in developing these proposals.

### **Recommendation**

22. That the Sub-Committee determine the application.



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DIRECTOR OF CORPORATE RESOURCES

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### **List of Background Papers**