



HILLINGDON
LONDON

Mrs Mukherjee
Licensing Service
Hillingdon Licensing Authority.

Date 28th February 2017

Your reference

Dear Mrs Mukherjee

**RE; Esso Service Station Eastcote High Road
LICENSING ACT 2003**

I am writing to you as an officer duly authorised to make representations on behalf of the Licensing Authority, in regard to the process of Premises licence applications.

In this regard the Licensing Authority has viewed the application having taking into account s176 of the Licensing Act 2003. This section states in part.

Prohibition of alcohol sales at service areas, garages etc.

(1) No premises licence, club premises certificate or temporary event notice has effect to authorise the sale by retail or supply of alcohol on or from excluded premises.

(2) In this section "excluded premises" means—

(a) premises situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes); or

(b) premises used primarily as a garage or which form part of premises which are primarily so used.

Licensing Service
Regulatory Services
T.01895 277067 F.01895 250011
lmeens@hillington.gov.uk www.hillingdon.gov.uk
London Borough of Hillingdon,
Civic Centre, High Street, Uxbridge, UB8 1UW



INVESTOR IN PEOPLE

Previous provisions have identified garages as premises that sell fuel and provide for the sale of vehicles or their repair.

The above part (b) refers to 'Primary use' and it is this use which has to be considered by any premises in this area of business. Currently the premise has not been constructed and thus no sales figures are or would be available for what would be the expected revenue from the site and how this revenue would be taken. Were we to see the site become very successful in fuel sales and less so in other products then the primary use, depending on the calculations between fuel and other sales could imply that the primary use of the site is as a garage and thus the garage would be excluded from holding a licence.

I would point out that primary use at initial application is a difficult process and not one necessarily to decide. It would be for the operators of the business to honestly regulate as the business continues, and to decide based on sales figures if the premises falls into a position where the consideration is that due to the sale of fuel over that of other non garage products that s176 of the act is not constituted.

For this reason I feel that as the applicants are not in a position to show what the primary use will be that the committee should consider a condition to regulate the area of law under this section.

The following is a condition that I would offer forwards to control this aspect of concern.

1. The Licence Holder shall monitor on a three/six monthly basis and maintain records demonstrating the primary use of the premises (agreement is required on whether primary usage is recorded by transaction or transaction value. If the latter, then the calculation figures must not include VAT and taxes/levies).
2. In the event that transaction data demonstrates that the premises are excluded premises pursuant to S176 of the Licensing Act 2003 the premises licence holder will notify the Licensing Authority and will cease trading using the premises licence until such time as the data demonstrates that the premises are not so excluded.



INVESTOR IN PEOPLE

3. The data on primary use shall be held for a minimum period of 6 years (to align with Statute of Limitations - but a shorter period can be agreed if required) and shall made available to the police and the Licensing Authority within 3 calendar days of a request being made for the information.

I intend to be present at the hearing if necessary to deliver this representation and to answer any questions that the committee may have.



Ian Meens
Licensing Officer



INVESTOR IN PEOPLE