

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

FRIDAY, 2ND DECEMBER 2016 AT 5.00 P.M.

PRESENT: Councillors R. L. Dent, C. M. McDonald and P.L. Thomas

Officers: Mrs. V. Brown, Mr. S. Alom and Mrs. P. Ross

Also in attendance: Mr. R. Arnot, Solicitor, Ward Hadaway LLP,
Applicants representative and Councillor Lesley Grey, Romsley Parish
Council (on behalf of the Parish Council and five local residents)

6/16 **ELECTION OF CHAIRMAN FOR THE MEETING**

RESOLVED that Councillor R. L. Dent be appointed Chairman of the
Sub-Committee for the meeting.

7/16 **APOLOGIES AND NOTIFICATION OF SUBSTITUTES**

No apologies for absence were received.

8/16 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

9/16 **PROCEDURE**

The Chairman opened the Hearing and introduced the Members of the
Sub-Committee and officers present.

The Chairman welcomed all those present and requested that all those
present provided brief introductions.

10/16 **APPLICATION FOR A VARIATION OF A PREMISES LICENCE IN
RESPECT OF CO-OP, 5 ST KENELMS ROAD, ROMSLEY,
WORCESTERSHIRE, B62 0NU**

The Sub-Committee was asked to consider a variation application for a
Premises Licence, in respect of the Co-op, 5 St Kenelms Road,
Romsley, Worcestershire, B62 0NU.

The variation application was subject to a Hearing initially in light of
twenty three representations received from members of the public. The
basis of the representations was on the grounds of:-

- The Prevention of Public Nuisance
- The Prevention of Crime and Disorder
- Public Safety
- The Protection of Children from Harm

All those present were informed that Councillor R. L. Dent, had conducted a site visit, an unannounced visit to the site for which the variation application had been submitted.

The Council's Legal Advisor asked Members to be mindful to the fact that it was a variation application before them and in doing so re-iterated the variation as applied for:-

Sale of Alcohol Everyday 07:00 - 23:00

The Technical Officer (Licensing) Worcestershire Regulatory Services (WRS), introduced the report and in doing so drew Members attention to the current operating hours, as detailed at 2.4 in the report and the representations received as detailed at Appendix 3 to the report.

In response to the Chairman, the Technical Officer (Licensing) WRS responded and explained that the variation application had been advertised in accordance with legislation and that under the Licensing Act 2003 that there was no requirement to consult with residents in respect of the variation application. Members were further informed that no representations had been received from any of the Responsible Authorities.

The case for the applicant was then put forward by Mr. R. Arnot, Solicitor, Ward Hadaway LLP.

Mr. R. Arnot introduced Mr. P. Senior, Area Manager, Co-op. Mr. Arnot stated that the Hearing was not about the opening and closing times of the store, but about the licensing objectives and meeting those objectives.

Mr. Arnot then referred to the twenty three letters objecting to the variation application. He would question their validity, as the objections were speculation and not evidence based. He would therefore ask Members to discount the following comments included in those representations:-

- Extra traffic.
- Parking issues.
- Fear that the additional later opening hours would create a public nuisance.
- The time the previous owners chose to close the premises.
- No need for such premises in a small village.
- No evidence that residents already suffered noise nuisance from the premises during opening hours.

Mr. Arnot continued and stated that the variation application had been submitted for the standard opening and closing hours for Co-op stores, although stores generally closed at 10:00 p.m.

The Co-operative Food Group Limited was the fifth largest retailer with over 76,000 employees. The application before the Sub-Committee was for the sale by retail of alcohol for consumption off the premises and that alcohol sales for the Co-operative Food Group Limited only represented 15% of their turnover. The store on St Kenelms Road was a convenience store and family shop, not a dedicated off licence.

The previous premises licence holder, namely the Spar, had chosen to close the store at 8:00 p.m. The Spar had supported the community and this was something that the Co-op was keen to continue.

A launch day was held for the opening of the new store on Saturday 26th November 2016, which was well attended and well received by local residents.

The Co-operative Food Group Limited understood their responsibilities in respect of the sale of alcohol. Training managers were responsible for ensuring that all staff undertook comprehensive training and had a clear understanding of all of the Co-operative Food Group Limited policies and procedures.

Regional Risk Manager's undertook additional responsibilities to help build good relationships with both staff and customers and to ensure that training and good practice was followed in each store. Staff had to undertake refresher training every two years. Stores operated and used comprehensive 'age prompt' tills, which acted as a reminder to staff with regard to the sale of age restricted products. Specific till information was then collected and the data analysed for each store.

Mr. Arnot referred to the additional information that had been provided prior to the Hearing and made available to Licensing Sub-Committee Members and to the Technical Officer, WRS. The Technical Officer, WRS had also made aware, those who had submitted representations, of the document. Namely, the Co-operative Way, Welcome and Citrus Training Guide, October 2010. The document gave an overview of the induction programme for all new staff members.

To ensure that the learning conducted in the stores was effective, a 'Store Buddie' scheme was operated. 'Store Buddies' assisted new colleagues with their practical training and development.

The Co-op was a good national operator and morally commercial. Under the Licensing Act 2003, they had a duty to meet the four licensing objectives.

Mr. Arnot reiterated that the variation application submitted by his client was for an additional hour Monday to Saturday morning and an additional three hours on a Sunday morning and thirty minutes on a Sunday evening. Under the existing premises licence the store was licensed until 11:00 p.m. Monday to Saturday and 10:30 p.m. on Sunday.

Mr. Arnot further informed Members that he had spoken with Police Sergeant Neil Jarvis, who had stated that if West Mercia Police had had any concerns with regard the variation application they would have submitted an objection.

At the invitation of the Chairman, Councillor Lesley Grey, Parish Councillor, Romsley, who was in attendance for the Parish Council and five local residents who had submitted representations in objection to the variation application, addressed the Sub-Committee.

Councillor Grey explained that there had been some confusion with regard to the variation application. Residents had seen the 11:00 p.m. closing time and had assumed that the variation application was to extend the existing stores closing hours, not realising that the current premises licence enabled the store to close at 11:00 p.m.

The generic letter circulated amongst residents had added to the confusion. As far as she was aware local residents had no objections to the variation application seeking the additional early morning opening hours. Residents had also felt reassured when it was explained to them that Co-op stores generally closed at 10:00 p.m.

Councillor Grey was really pleased with the way the Co-op had reacted to the concerns expressed by local residents. The Co-op had made a generous donation to the Parish Council and to her knowledge residents welcomed the Co-op store into the village.

In summing up, Councillor Grey highlighted that the generic letter that had been circulated around the village had not made it clear to residents that the variation application was for additional early morning opening hours and thirty minutes on a Sunday evening.

Having been asked to sum up, Mr. Arnot stated that there was nothing more he could add.

The Council's Legal Advisor informed Members that in light of the information received during the course of the Hearing, Members should take on board the comments made by Councillor Grey, Romsley Parish Council with regard to the fact, that the generic letter circulated, had caused some confusion amongst local residents in respect of the stores closing hours. Members should determine the weight they would give to those comments.

The Council's Legal Advisor continued and highlighted that the variation application was a variation for additional early morning hours and thirty minutes on Sunday evenings, as detailed on page 14 in the report.

Councillor Grey was in attendance and had spoken on behalf of Romsley Parish Council and five local residents who had submitted representations objecting to the variation application. Members should bear in mind that Councillor Grey was not in attendance to represent the other residents who had submitted representations objecting to the variation application.

The Sub-Committee must only consider those matters directly relevant to the premises. Members should base their decision on the information presented and the evidence provided.

As highlighted by Mr. Arnot during the course of the Hearing; Members should disregard reference to any matters that fell outside of the Licensing Act and the Sub-Committee's remit. Examples of such matters included extra traffic and car parking.

Having had regard to:

- The licensing objectives set out on the Licensing Act 2003
- The Council's Statement of Licensing Policy
- The guidance issued under section 182 of the Act
- The Report presented by the Technical Officer, Licensing, Worcestershire Regulatory Services
- The variation application, additional information (Welcome and Citrus Training Guide) and the oral representations made at the Hearing by the Applicant's representative, Mr Arnot.
- The relevant written representations and oral representation made at the Hearing by other parties who had submitted objections to the variation application.

The Sub-Committee has decided to grant the variation application for a premises licence relating to Co-op, 5 St Kenelms Road, Romsley, Worcestershire, B62 0NU, in the terms as set out in the variation application namely:-

- Sale of alcohol for consumption off the premises, Monday to Sunday, 07:00 hours to 23:00 hours.

The reasons for the Sub-Committee's decision are as follows:

- The Sub-Committee noted and considered the written and oral representations made by Mr Arnot, on behalf of the applicant, including his responses to the points raised by the objectors in their written representations. The Sub-Committee noted those matters which did not fall within the licensing objectives, in particular concerns regarding parking.

- The Sub-Committee was impressed by the additional information provided by the applicant's representative, including the company's Welcome and Citrus Training Guide, and the Business Model as described by Mr Arnot. Members considered that both would promote the licensing objectives.
- The Sub-Committee considered that the methods by which the applicant controls the sale of alcohol, as detailed in their application, together with their other standard operating procedures and policies, were such that they had every confidence that the applicant was a responsible organisation that would make every effort to promote the four licensing objectives.
- In considering the information submitted by the other parties, the Sub-Committee noted that no objections had been received from any of the responsible authorities. The Sub-Committee considered it of note that there were no reported complaints regarding the premises and further that the applicant had liaised with the police who had confirmed that they had no objection to the variation application.
- The Sub-Committee noted the comments made by the Parish Councillor, Councillor Lesley Gray on behalf of the Parish Council and five objectors in which she confirmed that having heard the representations made by Mr Arnot on behalf of the applicant that the Co-op would be welcomed by residents as an asset to the area.
- The Sub-Committee was mindful of the terms of the variation sought by the applicant which, for the evening trade was for an additional thirty minutes on a Sunday and for the morning trade an extra hour Monday to Saturday and three hours on a Sunday.
- The Sub-Committee disregarded representations which fell outside their jurisdiction and thereafter did not consider there to be any evidence to support a refusal having regard to the nature of the variation.

The Sub-Committee would remind all parties of the review process that applied to any premises that failed to promote the licensing objectives and the ability of any party to bring the licence before the Sub-Committee should evidence be obtained to prove that the premises was failing to meet its obligations.

The following legal advice was given:

- That the Licensing Objectives must be the paramount consideration;

- The application was for a variation of an existing licence and Members should therefore only consider matters relevant to the additional hours sought.
- That the Sub-Committee may only have regard to the representations which promoted the four licensing objectives; and
- The Sub-Committee must consider only those matters directly relevant to the premises under consideration and only those matters that fell under the Licensing Sub-Committee's remit.
- If having granted the premises licence and problems did occur then the licence could be brought back before a Sub-Committee to seek a review of the decision.

An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which written confirmation of the decision was received by the Applicant.

The meeting closed at 5.30 p.m.

Chairman