

## LICENSING SUB COMMITTEE

Minutes of a meeting of the Licensing Sub Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 11 July 2018 at 2.00 pm.

### PRESENT

Councillors Alan James, Barry Mellor and Huw Williams

### ALSO PRESENT

Solicitor (AL), Licensing Officer (NJ) and Committee Administrator (KEJ)

#### 1 APPOINTMENT OF CHAIR

Councillor Alan James was appointed Chair for the meeting.

The Chair welcomed all parties to the meeting and all present were introduced. The hearing procedures had been circulated previously to all parties and copies of the Statement of Licensing Policy were made available at the meeting.

#### 2 DECLARATION OF INTERESTS

No declarations of interest had been raised.

#### 3 LICENSING ACT 2003: APPLICATION FOR A NEW PREMISES LICENCE - CO-OP (NEW BUILD SITE ADJOINING PRESTATYN MAGISTRATES COURT), VICTORIA ROAD, PRESTATYN

A report by the Head of Planning and Public Protection was submitted (previously circulated) upon –

- (i) an application having been received from Co-operative Food Limited in respect of Co-op, Victoria Road, Prestatyn (Appendix A to the report);
- (ii) the intention to operate the premises as a convenience store open seven days a week selling groceries, sundry items and alcohol for consumption off the premises only;
- (iii) the applicant having requested authorisation to provide alcohol as follows –

LICENSABLE ACTIVITY	DAYS APPLICABLE	TIMES
Supply of alcohol (for consumption off the premises)	Monday – Sunday	06.00 – 23:00
Hours premises are open to the public	Monday – Sunday	06.00 – 23:00

- (iv) one written representation (Appendix B to the report) having been received from an interested party in response to the public notice relating to possible disturbance from noise and anti-social behaviour;
- (v) the applicant having indicated a willingness to mediate with the interested party however the objector had indicated that they preferred the matter to be brought before members;
- (vi) the need to consider the application taking due account of the Council's Statement of Licensing Policy; Guidance issued by the Secretary of State; other relevant legislation and relevant representations received, and
- (vii) the options available to the committee when determining the application.

The Licensing Officer introduced the report and detailed the facts of the case.

### **APPLICANT'S SUBMISSION**

Mr. R. Arnot, Ward Hadaway Solicitors and Mr. O. Jones, Co-op Store Manager were in attendance for the Applicant (Co-operative Food Limited).

In making his client's case Mr. Arnot –

- provided some background information to Co-operative Food Limited advising that it was a large, well known, long established and reputable retailer with plans for further investment and expansion into Wales; he also explained the Co-op's core values and support of local communities and charities
- advised that the application related to a new build Co-op Store in Prestatyn due to open in April 2019 with standard opening hours (6.00 a.m. – 11.00 p.m.) in order to cater for customers' convenience and reflect modern shopping habits
- indicated that the sale of alcohol related to approximately 15% of turnover with 85% of turnover relating to groceries and sundries demonstrating that the sale of alcohol was ancillary to the Store's wide range of domestic products
- elaborated upon the Co-op's comprehensive policies and procedures, including all age related matters, with particular reference to training and systems for ensuring the Challenge 25 policy was strictly adhered to (details of the Co-op's Core Colleague Training Manual and Age Matters information had been previously circulated to members together with a block plan of the premises)
- detailed the layout of the premises and strategic positioning of alcohol away from the entrance and prevention of direct access for customers together with the number and positioning of both internal and external CCTV cameras
- advised that, in line with usual practice, the Police had been contacted at an early stage in the process and had confirmed they were satisfied in terms of the proposals for the Store; it was also highlighted that no objections to the application had been received from any responsible authorities
- quoted Guidance issued under Section 182 of the Licensing Act 10.15 relating to hours of trading "Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours" which was also reflected in the

Council's Statement of Licensing Policy Section 8.5 "Shops and supermarkets will generally be permitted to sell alcohol during the normal hours they intend to open, but individual premises, which area focus for disorder and disturbance may, subject to representations, be subject to limitations".

Having provided detailed measures as to how the Co-op promoted the licensing objectives Mr. Arnot responded directly to the written representation received and reminded members that the onus was on the objector to provide evidence of likely failure to promote the licensing objectives. Planning permission had been granted in this case in line with the opening hours and the matter for the hearing related solely to the application for the sale of alcohol. It was argued that the site was an ideal location for a convenience store serving customers arriving both on foot and by road and given that the premises was on a bus route it was not exclusively a residential area. With regard to residents' fears of public nuisance it was submitted that they were unfounded – the Store and car park would be well-lit with CCTV cameras in operation and there was nothing to attract young people to congregate in that area. Past experience of licensing hearings with similar concerns from residents had shown that the anticipated problems had not materialised and those residents were now regular customers.

In response to a member's question, the Co-op Store Manager Mr. Jones advised that the store he managed shared a car park with a pub and there were no issues of public nuisance or anti-social behaviour. The store had an excellent relationship with the community and in accordance with their request had recently raised funding for a defibrillator. There were no known issues of disturbance or anti-social behaviour associated with any of the Co-op stores.

## **INTERESTED PARTY SUBMISSION**

One written representation had been received (Appendix B to the report) from Councillor Tony Flynn on behalf of residents in Prestatyn North Ward objecting to the sale of alcohol at the premises from 6.00 a.m. to 11.00 p.m. on the grounds of public nuisance and anti-social behaviour.

Councillor Flynn thanked Co-op for their investment in North Wales and welcomed them to his ward area. He also acknowledged and welcomed the measures detailed in order to promote the licensing objectives and advised that the objection only related to alcohol sales during the later hours. In referring to his written representation he explained residents' concerns regarding noise nuisance and disturbance from customers later at night given the close proximity of the store's entrance to properties on Windermere Drive. Whilst acknowledging the success of Co-op Stores in Prestatyn and Rhuddlan he submitted that those stores were not located in a quiet residential area as in this case, where young children and elderly residents retired to bed at 9.00 p.m. Consequently the objection was based on the sale of alcohol after 9.00 p.m. which could result in disturbance for nearby residents when trying to sleep, particularly given that noise sounded louder and travelled further during those later hours. Councillor Flynn also referred to other premises selling alcohol late at night in the vicinity but not directly in that residential area. In closing he advised that residents would support the Co-op but objected to the later licensing hours and respectfully requested that they be curtailed.

Members viewed the plan of the premises and considered the positioning of the store in the area and its proximity to residential properties. It was noted that there used to be a Police Station on the site which in itself would likely have given rise to a certain level of noise and disturbance. In response to questions no evidence was presented regarding public nuisance/disturbance or anti-social behaviour in relation to other premises referred to in the vicinity selling alcohol late at night. Mr. Jones suggested that refusing to sell alcohol after 9.00 p.m. whilst the store was open to customers could in itself create problems.

### **APPLICANT’S FINAL STATEMENT**

In making a final statement Mr. Arnot reiterated the merits of living near to a Co-op Store and its convenience for shoppers, particularly for those with unconventional working hours, and the opening hours catered for modern shopping demands. He asked members to consider the likely effect of the sale of alcohol at the store after 9.00 p.m. bearing in mind that alcohol sales only accounted for approximately 15% of turnover.

### **ADJOURNMENT TO CONSIDER THE APPLICATION**

At this juncture (2.30 p.m.) the Licensing Sub Committee adjourned to consider the application.

### **DECISION AND REASONS FOR THE DECISION**

**RESOLVED** that the Premises Licence be granted as applied for and in accordance with the conditions as set out within the Operating Schedule, for the following –

<b>LICENSABLE ACTIVITY</b>	<b>DAYS APPLICABLE</b>	<b>TIMES</b>
<i>Supply of alcohol (for consumption off the premises)</i>	<i>Monday – Sunday</i>	<i>06.00 – 23:00</i>
<i>Hours premises are open to the public</i>	<i>Monday – Sunday</i>	<i>06.00 – 23:00</i>

The Chair conveyed the Sub Committee’s decision to all parties present and the Solicitor reported upon the reasons for the decision as follows –

Members had carefully considered the application and representations submitted in this case.

The Co-op had given a comprehensive and detailed account of how it, as a Company, operated, and how it complied with the Licensing Objectives. Considerable detail was in the application form itself but the detail provided by the Co-op’s representative at the hearing demonstrated a confident and comprehensive approach to how the Company complied with the Licensing Act 2003. The Sub Committee found that their approach entirely satisfied the Licensing Objectives.

Whilst representations had been received raising concerns as to what might happen once the Co-op Store was in operation, the complaints had no evidential

substance. The Co-op Store would remain open from the hours of 6.00 a.m. to 11.00 p.m. whether alcohol was served or not. It was a convenience store by its very nature and served the public at times convenient to them. There was no evidence presented or offered regarding issues of anti-social behaviour or nuisance from other premises selling alcohol late at night which were in the same vicinity.

The Sub Committee found no evidence that there would be any crime and disorder or public nuisance emanating from the premises were the licence to be granted. In the unlikely event that there was any, the Co-op and its managers had in place robust and tested policies and procedures for dealing with any issues, through CCTV, lighting, Challenge 25 policies and the comprehensive training of staff. Consequently the Licensing Sub Committee considered that a case to reject or modify the application had not been made and resolved to grant the application as applied for.

The meeting concluded at 2.50 p.m.