

Unconfirmed



Minutes of a Meeting of the **Licensing Sub-Committee** held in the Deben Conference Room, East Suffolk House, on **Monday, 04 July 2022 at 2:30 PM**

Members of the Sub-Committee present:

Councillor Linda Coulam, Councillor Colin Hedgley, Councillor Mark Newton, Councillor Russ Rainger

Officers present: Teresa Bailey (Senior Licensing Officer), Ben Bix (Democratic Services Officer), Martin Clarke (Legal Advisor), Leonie Hoults (Licensing Officer), Matt Makin (Democratic Services Officer), Jemima Shaw (Trainee Solicitor), Nicola Wotton (Deputy Democratic Services Manager).

Others present: Mr R (the Applicants Solicitor), Mr W and Mr F.

1 Election of a Chairman

On the proposition of Councillor Newton, seconded by Councillor Rainger, it was

RESOLVED

That Councillor Linda Coulam be elected as Chairman of the Licensing Sub-Committee for this meeting.

The Chairman reported that there had been an error on the agenda regarding the start time of the meeting. She stated that the meeting needed to be adjourned to allow for any objectors to arrive, as they had been told that the meeting would start at 3.00pm.

The meeting was adjourned from 2.32pm to 3.00pm.

2 Apologies for Absence

There were no apologies for absence received.

3 Declarations of Interest

No declarations of interest were made.

4 Declarations of Lobbying and Responses to Lobbying

No declarations of lobbying were made.

5 Variation of Premises License, Central England Co-Operative, Hillside Road East, Bungay

The Sub-Committee received report **ES/1192** of the Licensing Officer regarding a Variation of Premises Licence, for the Central England Co-Operative, Hillside Road East, Bungay.

The report was introduced by the Licensing Officer, who advised that a hearing had been required as eleven representations against the application had been received. The summary grounds for the representations were that residents would be disturbed due to the increased trading hours and additional deliveries. The representations stated that there was already a problem with anti-social behaviour in the car park, late at night and an increase in trading hours would encourage any anti-social behaviour even later. The Legal Advisor commented that no representations had been received from any Responsible Authorities.

The Sub-Committee was asked to determine the application for a Variation of Premises Licence, taking into account the guidance issued under Section 182 of the Licensing Act 2003, the Council's Statement of Licensing Policy and the Human Rights Act 1998. The Sub-Committee was also asked to state its reasons when announcing its decision.

The Chairman invited question to the Licensing Officer.

Councillor Newton asked if the Responsible Authorities had been consulted and if any responses had been received from them? The Licensing Officer confirmed that the Responsible Authorities had been consulted as part of the licensing processes. The Police had not responded and the Licensing Officer stated that they would only respond if they had concerns about the application. She reported that Environmental Protection were the only Responsible Authority to respond and they had advised that they had no objections to the application.

The Applicant, Mr R, confirmed that he had no questions for the Licensing Officer.

The Legal Advisor sought clarification that Environmental Protection had raised no objections and that they would deal with any noise pollution and noise nuisance caused by the store as they arose? The Licensing Officer confirmed that this was correct and she clarified that a response had been received from Food Safety and Environmental Protection and both confirmed that they had no concerns regarding the application.

There being no further questions for the Licensing Officer, the Chairman invited Mr R, the Solicitor on behalf of the applicant, to address the Sub-Committee.

Mr R explained that the Central England Co-operative was the largest independent Co-op in the UK, with over 250 stores. Mr R introduced Mr W and Mr F, who would be able to answer any detailed queries in relation to the Bungay store. Apologies were given on behalf of another person, who had been unable to attend the meeting this afternoon.

Mr R stated that the current opening hours of the Bungay store were 8.00am to 10.00pm, Monday to Saturday and 8.00am to 4.00pm on a Sunday. He stated that if the shop was able to trade from 7.00am, it would provide an additional hour of trading each morning. He provided reassurance that traditional opening hours would be maintained on Christmas Day and Good Friday. The additional hour of opening in the morning would also bring the opening hours of the Bungay store in line with the rest of the shops within the Central England Co-operative.

Mr R stated that there was a petrol station at the front of the Bungay store, however, that was outside of the scope of this licence and was therefore not affected by the application under consideration. He commented that the Co-op was a responsible retailer, which took its responsibilities seriously; its staff were well trained regarding age verification and there were no issues regarding nuisance or underage purchasing of restricted items at the Bungay store. The details of any 'refused sales' were also recorded and there was an effective network of mystery shoppers to ensure that high standards were maintained across the Central England Co-operative.

The premises at Bungay were well run, there had been no complaints raised and there had been no representations received from Responsible Authorities. It was noted that there were no plans to make any changes to the way the store operated, as a result of this application.

Mr R stated that the store was currently staffed from 6.00am each morning and the staff used that time to stock the shelves. The objectors' representations that had been submitted were eleven copies of the same letter, which raised exactly the same issues. He felt that there had been some conjecture and misunderstanding about the application locally and he hoped to provide clarification at this meeting.

Mr R confirmed that the objectors' representations that had been received had been taken seriously and there had been much discussion at management level, in relation to the concerns about the car park and other factors. He reported that the car park barriers had been installed when the Co-op store first opened, around 20 years ago, however, they had not been used for some time. This was due, in part, to the free ATM at the front of the store, which needed 24 hour access and the petrol station, at the front of the store, which had separate opening hours. It was noted that the representations had also mentioned youths congregating in the car park and drug taking. Mr R stated that a thorough investigation had taken place regarding the Bungay store and it transpired that only 1 complaint had been received in relation to the car park in the past year, which had been about a pothole. There had been no complaints received about the use of the car park outside of the store's opening hours. The Co-op took the concerns raised very seriously, in terms of both the security of its store and also the safety of its staff. Mr R stated that it had been agreed that further investigations would take place regarding the use of the car park barriers in future.

Mr R stated that the representations had also raised concerns about noise, due to changes in delivery times at the store. Mr R provided reassurance that there were no planned changes to any of the delivery times. He then provided some examples of the times and types of deliveries that were currently being undertaken at the store:

- Fresh deliveries were between 6.00pm to 9.00pm 7 days a week,
- Ambient groceries were delivered 6.00am to 10.00am 6 days a week,
- Warburtons bread was delivered 6.00am to 10.00am 6 days a week,
- Newspapers and magazines were delivered 6.00am to 7.00am 7 days a week.

It was noted that these deliveries were at times when the shop was already operational.

Mr R reported that the application also included a variation of plans, which were fractionally different to the original plans and involved minor repositioning of shelving, near the entrance. The Licensing Sub-Committee then took a few moments to examine the plans in detail.

Mr R referred again to the representations received in relation to the application and commented that there had been no negative responses received from the Responsible Authorities. Mr R stated that there was the risk of local residents making a reactive or instinctive response to any proposed changes to the store, and in this instance, it had been one representation which had been repeated eleven times. Mr R confirmed that there was no evidence that should the application be granted, that the Licensing Objectives would not be maintained. There was no evidence that there had been any mismanagement at the store and he asked that the Licensing Sub-Committee grant the application as submitted.

The Chairman then invited questions to Mr R.

Councillor Newton asked how the sale and display of alcohol during unlicensed hours would be managed? Mr R reported that there would be a consistent approach across all stores in the Central Co-operative area. The sale of alcohol would only be able to take place during licensed hours and he confirmed that customers would be refused the alcohol if they tried to buy it outside of the licensed hours. He commented that people were more flexible these days and many worked shifts, therefore it was important to meet the needs of those customers who were not working traditional hours and it was important for the store to provide a good retail offering. Mr R provided clarification that staff would be fully trained in the legal sale of alcohol, although alcohol could be displayed in the store at all times, there were restrictions on the hours of sale.

Councillor Rainger sought reassurance that there would be age verification checks prior to the sale of alcohol and he queried the policy that would be used by the Co-op staff? It was confirmed that Challenge 25 would be in operation for the store.

The Chairman asked if the use of Challenge 25 could be a condition added to the licence? Mr R confirmed that the Central England Co-op had standard wording in relation to Challenge 25 and he requested that the wording be used for consistency across the stores.

The Chairman asked if the application was granted and the store was open for longer hours, would there need to be more staff employed at the store? Mr W confirmed that there would be additional footfall at the store and, as a result, there would be a need for more staff to be employed at the store.

The Chairman asked if the staff working at the tills would be protected by a screen, which could provide some protection if some customers were aggressive towards them? Mr W confirmed that the tills all had Perspex screens, which had been installed during lockdown, to protect staff from Covid 19. It had been agreed that all the screens would remain in place in Central England Co-op stores for security reasons, as a physical barrier.

The Legal Advisor asked if it would be possible to have a copy of the proposed wording that would be used in place of the Challenge 25 scheme? Mr R read out the wording and it was confirmed that suitable ID would be required, such as a valid passport, driving licence or a UK military ID card.

The Senior Licensing Officer asked about the opening times of the store which were 00:00 to 23:59 in the application and she queried if the store was seeking a 24-hour licence? Mr R clarified that the opening hours were specified in that way on the application, as there were no opening hours transferred from the previous licensing system. He stated that this was simply a tidying up exercise.

The Chairman reported that she was concerned about the possibility of 24-hour opening at the store. Mr R confirmed that the application was only for the store to be open from 7.00am to 11.00pm 7 days a week and during this time it could sell alcohol. The staff would be in the premises from 6.00am to 12.00 midnight. They would be cleaning and restocking the premises in the 2 hours when there were no customers in the store.

The Chairman invited the Licensing Officer and Applicant to sum up.

The Licensing Officer reported that she had nothing additional to add. The Senior Licensing Officer asked if it would be possible to pose another question at this point in the meeting? The Chairman confirmed this would be acceptable. The Senior Licensing Officer asked if there was any CCTV in the car park, to see if there was any evidence of anti-social behaviour involving youths in the car park? It was reported that there was CCTV at the front of the store, which also covered parts of the car park, however, no problems had been found and there were no concerns had been reported.

Mr R stated that he hoped that the Licensing Sub-Committee would consider all of the evidence presented at the meeting. The application was clear and would bring the store in line with others in the Central England Co-operative. The store was very well run and he had allayed the concerns and fears raised by the objectors.

The Sub- Committee adjourned, with the Legal Advisor, Trainee Solicitor and the Deputy Democratic Services Manager, to make its decision.

On the return of the Sub-Committee, the Chairman read the decision notice as follows:

Central England Co-operative Ltd has applied for a variation to the premises licence at Central England Co-operative, Hillside Road East, Bungay, NR34 1RX which would change the following licensable activities to:

Supply of alcohol (off sales)

Proposed - Monday to Sunday 07:00 to 23:00

Proposed opening hours – Monday to Sunday 00:00 to 23:59

This Sub-Committee has been held as eleven representations against the application have been received from other persons.

The Sub-Committee heard from the Licensing Officer and three representatives from the applicant. There were no objectors present.

The Solicitor for the applicant indicated that the purpose of this application was to allow the sale of alcohol for an additional hour in the morning as the shop intended to open from 7.00am, rather than 8.00am as it currently does. The application was also intended to be a 'tidying up' exercise, for example, to dispose of 'grandfather rights' and to clarify the opening hours as the current licence was silent as to this.

The Solicitor drew the Licensing Sub-Committee's attention to Point 10.15 of the Statutory Guidance which indicates that unless there are good reasons, a supermarket should normally be free to sell alcohol for consumption off the premises at any time when it is open for shopping, unless there are good reasons based on the Licensing Objectives for restricting those hours.

The Solicitor also drew the Sub-Committee's attention to the objectors letters, pointing out that the wording was identical in all 11 letters and that the shop itself had not received any complaints in relation to antisocial behaviour in the car park. The only complaint they had received in relation to the car park had been about a pothole.

They also indicated that the revised hours would not change the delivery schedule and that the intention was not to open 24 hours a day and the applicant agreed to amend their application to specify that the permitted opening hours would be 6.00am to 12.00 midnight from Monday to Sunday.

In relation to the protection of children from harm, the applicant's Solicitor indicated that the supermarket operated a Challenge 25 Scheme and would be happy for this to be included in their licence, for consistency across their estate.

It was also brought to the Sub-Committee's attention that no responsible authority had objected. The Licensing Officer confirmed that they had all been served with the application.

Although no objector was present at the meeting, the Sub Committee have read the letter carefully and they note the comments.

The Sub-Committees decision

The Sub-Committee, having considered the representations from the applicant's

representative, objectors and the licensing officer, have decided to grant the application, subject to the following conditions:

- 1. The permitted opening hours shall be 6.00am to 12 midnight – Monday to Sunday*
- 2. The permitted licensing hours are 7.00am to 11.00pm – Monday to Sunday*
- 3. The License Holder shall ensure the premises will operate a Challenge 25 proof of age policy. If a customer appears to be under 25 years of age and cannot prove they eligible to purchase the age restricted item, with acceptable form of identification, they will be refused service.*
- 4. A Refusals Register is maintained and shall be produced for inspection to any Licensing Officer on request.*

Whilst the Sub Committee notes the objections, in particular to anti social behaviour, the Sub Committee recognises that no responsible authority has objected and in accordance with point 9.12 of the Statutory Guidance the Sub Committee considers the absence of any objection to carry great weight, in particular the Sub Committee would have expected the Police and/or the Council's Environmental Protection Team to object if they have any concerns. The Sub Committee also noted that the applicant had not received any complaints relating to the contents of the objectors letter.

The Sub Committee were concerned about the potential disruption caused by the supermarket opening 24 hours a day but these concerns have been addressed by the applicant agreeing to reduce its permitted opening hours to 6.00am to 12.00 midnight. Given the above, the Sub Committee is of the opinion that the Licensing Objectives can be met subject to the above conditions.

Should any issues occur in the future, the license could be reviewed.

In making its decision the Sub-Committee considered the Council's own licensing guidance and statement of licensing policy, as well as the Statutory Section 182 guidance, and Human Rights Act 1998.

Anyone affected by this decision has the right to appeal to the Magistrates' Court within 21 days of receiving notice of the decision.

Date: 4 July 2022

The meeting concluded at 5:05 PM

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Chairman