

**Minutes of the Licensing Sub-Committee
11 August 2020**

Present:

Councillor R.W. Sider BEM (Chairman)

Councillor C.L. Barratt and S.A. Dunn

179/20 Disclosures of Interest

Councillor R.W. Sider, BEM declared that he had visited the site at 126 High Street, Staines on Saturday 8 August 2020 and had a sound knowledge of the area.

180/20 To consider an application for a Premises Licence at Co-Op, Unit 1, 126 High Street, Staines-upon-Thames, in the light of representations

The Chairman introduced members and officers present and welcomed everyone to the meeting.

The Chairman asked the applicant and the other parties present to introduce themselves. He then explained the procedure to be followed at the hearing.

The Council's Temporary Principal Licensing Officer summarised the application which was set out in full in the report of the Deputy Chief Executive.

The hearing continued in accordance with the procedure.

Having heard the evidence presented, the Sub-Committee retired to consider and determine the application, having regard to the licensing objectives on prevention of crime and disorder, prevention of public nuisance and protection of children from harm.

Upon reconvening, the Chairman gave the Sub-Committee's summary decision.

The full decision with reasons was notified to the applicant and other parties within five working days of the hearing.

Resolved that the application by the Co-op Food Group Ltd for a Premises Licence at Unit 1, 126 High Street, Staines-upon-Thames be granted subject to conditions, as set out in full in the attached Decision Notice.

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Please reply to:

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Our ref: GS/LIC
Date: 12 August 2020

SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

In accordance with the LICENSING ACT 2003 s.23

Date of Licensing Sub-Committee: 11 August 2020
Applicant: Co-operative Group Food Limited
Premises: Unit 1, 126 High Street
Staines-Upon-Thames
TW18 4EY

REASON(S) FOR HEARING: Relevant representations received from other parties concerning Crime and Disorder, Prevention of Public Nuisance and Protection of Children from Harm:-

- Potential for increase in anti-social behaviour
- Potential for increase in noise and litter
- The presence of 5 schools within 0.5 miles of the premises

DECISION

Granted subject to conditions
With effect from 11 August 2020

REASONS FOR DECISION

1. The application is for a premises licence at Unit 1, 126 High Street, Staines-Upon-Thames, TW18 4EY.

Attendance

2. Four people attended the Sub-Committee hearing to make representations. They are:
 - Mr Pascal Tokinaga, Applicant;
 - Mr Richard Arnot, agent for the Applicant;
 - Mrs Ariuntuya Myagmargarig, together with her husband Vasileios Kritikakis, local residents.

Evidence

3. The Licensing Sub-Committee considered all of the relevant evidence made available to it at the hearing including:
 - The Report of Lucy Catlyn, Temporary Principal Licensing Officer, outlining the matter to be considered.
 - Written representation from one interested party.

In addition the following documents were circulated prior to the hearing:

- DPS consent.
 - Location plans of the premises
 - The Applicant's "Age Matters" Staff Training Pack
 - The Applicant's "Core Colleague Induction" Staff Training Pack
 - Details of "Nearby Licensed Premises"
 - Amended agreed conditions
 - Representation made by Mrs Ariuntuya Myagmargarig, together with her husband Vasileios Kritikakis.
4. In considering all of this evidence, the Sub-Committee has taken into account the Regulations and National Guidance under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

Application

5. An application for a Premises Licence at Unit 1, 126 High Street, Staines-Upon-Thames, TW18 4EY, was received from the Applicant on 17 June 2020.

The application was to permit the sale of alcohol seven days a week from 0600hrs to 2300hrs.

6. The public was consulted in accordance with the Licensing Act 2003. The required notices were displayed and published in the Staines and Chronicle Informer on 24 June 2020.
7. The application generated one representation from other parties. No representations were received from any of the responsible authorities.

EVIDENCE

Background

8. Unit 1, 126 High Street, Staines-upon-Thames TW18 4EY is located on the ground floor of a newly built 8 floor mixed retail and residential development.
9. The agreed conditions read as follows:
 1. The premises shall maintain a CCTV system which gives coverage of all entry and exit points. The system shall continually record whilst the premises are open and conducting licensable activities. All recordings shall be stored for a minimum period of 28 days and shall be capable of being easily downloaded. Recordings shall be made available upon the receipt of a request by an authorised Officer of the Police or the Local Authority.
 2. An incident log (whether kept in a written or electronic form) shall be retained at the premises and made available to an authorised Officer of the Police or the Local Authority.
 3. The premises shall operate a proof of age scheme, such as a Challenge 25, whereby the only forms of acceptable identification shall be either a photographic driving licence, a valid passport, military identification or any other recognised form of photographic identification incorporating the PASS logo, or any other form of identification from time to time approved by the secretary of the state. Posters shall be clearly displayed at the entrance to the premises as well as at least one location behind the till advising customers that such a scheme is in operation.
 4. The premises will be fitted with a burglar alarm system.
 5. The premises will be fitted with a panic button system for staff to utilise in the case of an emergency.
 6. A complaints procedure will be maintained, details of which will be made available in store and upon request.

7. All staff will receive comprehensive training in relation to age restricted products and in particular the sale of alcohol. No member of staff will be permitted to sell age restricted products until such time as they have successfully completed the aforementioned training. Records to be kept to document that all staff have had training. All staff to receive refresher training on all of these aspects every six months. Training documentation to be made available to Responsible Authorities on request.
8. A till prompt system will be utilised at the premises in respect of alcohol to remind staff of the need to check identification, and alert them to the age verification policy in place
9. A refusals register (whether kept and written or electronic form) will be maintained at the premises and will be made available for inspection upon request by an authorised Officer of the Police or the Local Authority

Applicant

10. The applicant's agent, Mr Arnot of Ward Hadaway, advised the Sub-Committee that his client was the 6th largest retailer in the country and it hoped to open a new store in the premises in November 2020. The sale of alcohol represents 15% of the turnover of the business with the other 85% of turnover generated from grocery sales. The applicant is a very experienced retailer and understood what was expected of it in order to uphold the licensing objectives.
11. No staff would be able to sell alcohol until they had undergone a training programme including the consequences of underage sales and awareness of proxy sales. A risk manager had been appointed. Mr Arnot also explained the other measures the applicant would operate to address the prevention of crime and disorder and public nuisance objectives which included; the provision of CCTV, an incident log, a refusals book and a complaints procedure. The staff were trained to ensure that litter was not a problem.
12. Mr Arnot highlighted that guidance from the Secretary of State sets out that shops should be entitled to sell alcohol during trading hours. He admitted that it was not anticipated that much alcohol would be sold at 6am, but it was a service that the Applicant wished to offer to residents. Such trading hours were not unusual and the applicant was confident that there would be no issues. The applicant's customers did not tend to cause disturbance. The shop was an asset to the community and offered convenience to people in the locality.
13. Mr Arnot pointed out to the Sub-Committee that only one representation had been received from the residents within the development and no representations had been made by other responsible authorities. The onus

was on an objector to convince the Sub-Committee that the applicant would fail to uphold the licensing objectives.

14. Mr Arnot continued that issues regarding light pollution, noise generated from the servicing of the premises had been taken into account by the applicant but these were planning issues and not a matter for the Sub-Committee to deal with as part of the licensing regime.
15. As a gesture of goodwill, the applicant agreed to meet with the residents of the development as often as reasonably necessary to address any specific concerns they might have.

Representations

16. A written representation was received from an interested party raising the following objections to the application under the licensing objectives:

Prevention of crime and disorder

- A potential for increase in alcohol related crime and disorder

Prevention of public nuisance

- A potential for increase in alcohol associated anti-social behaviour
- A potential for increase of noise nuisance from customers or persons gathering near the premises

Protection of children from harm

- The presence of 5 schools within 0.5 miles of the premises

17. Ariuntuya Myagmargarig and her husband Vasileios Kritikakis both attended the hearing to give evidence. Mrs Myagmargarig expressed concerns that the sale of alcohol from these premises had the potential to disturb families living in the building above the premises by encouraging gatherings of people in the area who would create noise disturbance and would lead to an increase in anti-social behaviour and crime. She noted that there needed to be balance between the hours which would enable the applicant to run a profitable business and those which would allow residents to enjoy their homes.
18. Mrs Myagmargarig stated that the proposed installation of CCTV was fantastic, but it did not cover the entire building. She accepted that the development had a 24 hour concierge in place but the residents wanted CCTV around the building as she felt that having a supermarket which was

open so early and late would increase crowd and traffic at the entrance to the building.

19. Mrs Myagmargarig was also concerned that shop customers could access the residential parts of the development, as the retail and residential elements were internally connected and she would not be sure if she was holding a door open for a neighbour or stranger. She was also concerned that shop customers would use the car park for the building.
20. She also highlighted concerns in respect of light pollution from the premises and noise generated from the servicing of the premises. She asked for a change in the proposed trading and licensable hours to the same times as other supermarkets in the area.
21. Mrs Myagmargarig noted that she and her husband were the sole objector and said that she was annoyed at the procedure for notification and felt the statutory notices were not clear.
22. A further concern was the park located next door, which was going to be extended by the future proposed demolition of the marketing suite, as she was worried people would buy alcohol from the new store and go and sit in the park and cause a disturbance.
23. Mr Kritikakis set out his dismay that the supermarket with the longest opening hours was in their building and his concern about potential noise as their bedroom is above the entrance door. He pointed out that Lidl, which was a short walk away, had opening hours of 8am to 10pm and Sainsbury's only opened until 10pm at night, and neither was located in a residential area. He felt that people who bought alcohol early or late at night were not the sort of people they wanted hanging around their building. All the windows in the building were high and they were not protected from the light that would be generated from the shop.

Findings

24. The Sub-Committee has considered the representations made by the applicant and other parties and finds as follows:
25. The applicant has demonstrated to the Sub-Committee that it has sufficiently robust procedures in place to promote the licensing objectives on the prevention of crime and disorder, public nuisance and the protection of children from harm including: the provision of CCTV which will include coverage of all entrance and exit points, the premises will be fitted with a burglar alarm, a Challenge 25 proof of age scheme will be in operation. The applicant will also keep a refusals book and report any problems to the police.

Comprehensive staff training will be carried out and a risk manager has been appointed.

26. The Sub-Committee is satisfied that the applicant's operating schedule is sufficient and will encourage a high quality well managed premises, demonstrating best practice and reflecting the legal requirements of operating a licensed premises. It was significant that no other responsible authority had made any representations with regard to this application and there was only one representation made from an interested party.
27. The Sub-Committee has considered the representations from Mrs Myagmargarig and her husband Mr Kritikakis. The representations made which were relevant to licensing were found overall to be speculative and failed to convince the Sub-Committee that there was a real threat of the fears described occurring.
28. No actual evidence has been submitted before the Sub-Committee indicating that the licensing objectives would not be upheld. The agreed conditions for the proposed licence are appropriate for the promotion of the licensing objectives and relevant to the premises.
29. The Sub-Committee can only determine this application on its own merits and cannot take into account the impact that other licensed premises are having on the licensing objectives. If the operation of other premises in the vicinity are causing problems of crime and disorder and anti-social behaviour, then these should be brought to the attention of the relevant authorities, i.e. Surrey Police and Spelthorne Borough Council's Licensing team.
30. In relation to the applicant's submissions regarding the licensing hours, the Sub-Committee is mindful of National Guidance that states at paragraph 10.15, '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.'
31. The Sub-Committee therefore considers on the basis of the evidence that it has heard and the findings of fact that it has made, that there is no reason why the application should not be granted.

Decision

32. For the reasons stated above, the Sub-Committee confirms that the application for a premises licence be granted, subject to the agreed conditions.

Conclusion

33. That is the decision of the Sub-Committee. A copy of this decision has been provided to all parties concerned within 5 working days of the Sub-Committee hearing.
34. You have the right to appeal against this decision to the Magistrates' Court within 21 days of receipt of this decision notice.
35. If you decide to appeal, you will need to submit your appeal to Guildford Magistrates Court. You should allow sufficient time for your payment of the relevant appeal fee to be processed. For queries, Guildford Magistrates Court can be contacted on 01483 405 300.

Cllr R.W. Sider BEM - Chairman
Cllr S.A. Dunn
Cllr C. Barratt

Date of Decision: 11 August 2020
Date of Issue: 12 August 2020