

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 19 April 2013 at 10.03 am.

Present:

Sub-Committee:

Chairman: Councillor S M Le Chevalier

Councillors: J A Cronk  
C J Smith (In place of S R Nicholas)

Officers:

Legal Adviser: Senior Solicitor  
Licensing Officer: Licensing Team Leader  
Administrator: Team Leader – Democratic Support  
Democratic Support Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/002/2013).

16 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors P M Beresford and S R Nicholas.

17 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that in accordance with Council Procedure Rule 4, Councillors S M Le Chevalier and C J Smith had been appointed as substitutes for Councillors P M Beresford and S R Nicholas respectively.

18 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

19 LICENSING ACT 2003 - APPLICATION FOR THE VARIATION OF A PREMISES LICENCE IN RESPECT OF CO-OP PIONEER, MOAT SOLE, SANDWICH, KENT CT13 9AL

The Sub-Committee considered an application for a variation of an existing premises licence from the applicant's representative, Mr R Arnot of Ward Hadaway Solicitors, in respect of an existing premises licence for Co-Op Pioneer, Moat Sole, Sandwich, Kent CT13 9AL.

The application was for a variation of the existing premises licence to:

- (a) EXTEND the hours of licensable activities in respect of the supply of alcohol (for consumption off the premises only) from 08:00 to 23:00 (Monday to Saturday) and 10:00 to 22:30 (Sunday) to 07:00 to 23:00 (Monday to Saturday) and 10:00 to 22:30 (Sunday).
- (b) REPLACE condition 7 of the licence which states:

"The premises licence holder will endeavour to eliminate or minimise any nuisance arising out of its licensable activities. In doing so the premises licence holder will work with enforcement authorities where any issues are identified. A complaints procedure will be maintained in order that local residents have a means of contact if necessary."

With the following new condition:

'The premises licence holder will, upon request, provide the telephone number of their Customer Relations Contact Centre'.

- (c) REMOVE the embedded conditions carried over from the previous Justices' licence issued under the Licensing Act 1964 which states:

"The restrictions do not prohibit:

- (a) During the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (b) The ordering of alcohol to be consumed off the premises or the despatch by the vendor of the alcohol so ordered;
- (c) The sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces.

Alcohol shall not be sold in an open container or be consumed in the licensed premises."

On the basis of the representations of the applicant and his representative, the responsible authorities and other persons, the Sub-Committee found the following facts to be established:

- (i) The Applicant was desirous of the small change to an hour earlier for the licensable hours (apart from Sundays) so as to be contemporaneous with the shop's new opening hours.
- (ii) That there was no cumulative impact policy in place in Sandwich.
- (iii) That the till system would not permit sales of alcohol outside of the licensed hours in the event that the opening hours were longer than the licensed hours.
- (iv) The till system was also used to assist with age checking and recording for alcohol sales.
- (v) The Sub-Committee had regard to the fact that there was no police evidence relating to potential problems relating to crime and disorder and the police had not made representations.

- (vi) The Sub-Committee had regard to the evidence from the Licensing Officer and the Applicant which stated that the shop had been re-fitted approximately 12 months ago and both then and now there are ever present concerns about the prevention of theft of alcohol and its location in the premises; although these concerns didn't necessarily exceed the norm.
- (vii) It was possible, in the future, that the opening hours of the store may change and may not then correspond with the licensed hours.

In reaching its finding, the Sub-Committee took into account the following:

- (i) The Licensing Act 2003 including sections 34, 35 and 182.
- (ii) The Council's licensing policy.
- (iii) The case of Daniel Thwaites PLC –v- Wirral BC.
- (iv) The case of Matthew Taylor-v-Manchester City Council and TCG Bars Ltd (2012) EWHC 3467 (Admin).
- (v) The Human Rights Act 1998.
- (vi) Section 17, Crime and Disorder Act 1998.

RESOLVED: That the application for a variation in the premises licence of Co-Op Pioneer, Moat Sole, Sandwich, Kent CT13 9AL:

- (a) GRANT an extension to the hours of licensed activities in respect of:

The supply of alcohol (for consumption off the premises ONLY):

Monday to Saturday	07:00 to 23:00
Sunday	10:00 to 22:30

- (b) AMEND condition 7 of the licence to read:

"The premises licence holder will, upon request, provide the telephone number of their Customer Relations Contact Centre."

- (c) REMOVE the embedded conditions carried over from the previous Justices' Licence issued under the Licensing Act 1964 (as mentioned above) with the exception of the following condition which is to remain:

"Alcohol shall not be sold in an open container or be consumed in the licensed premises."

Our reason for stating this is to give everybody added protection.

- (d) ADD the following conditions to the licence:

- (i) Should the till system, which prevents the sale of alcohol outside of the licensed hours, stop

working, Dover District Council's Licensing Officer must be informed within 48 hours.

- (ii) That Dover District Council's Licensing Officer must be informed within 7 days of any change to the store opening hours.

Our reason for imposing these conditions, is to ensure, so far as is possible, that the Licensing Officer and Authority have no concerns about the sale or theft of alcohol on the premises outside of the licensed hours.

- (e) Please note that the paper licence will again reflect what the current opening hours are and please confirm today what these are.
- (f) Please note for any future application we request the information in Box L (page 23) which states what your current opening hours are.

The meeting ended at 11.40 am.