

**LICENSING PANEL
20 JULY 2015
2.07 - 3.13 PM**



Present:

Councillors Brossard (Chairman), Allen and Thompson

In Attendance:

Simon Bull, Legal Adviser to the Panel

Charlie Fletcher, Licensing Officer

Amanda Roden, Democratic Services Officer

1. Declarations of Interest

There were no declarations of interest.

2. The Procedure for Hearings at Licensing Panels

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

3. New Application for Co-op, Former Daruchini, Forest Road, Binfield, Berkshire. RG42 4HP

The Panel's decision was that the new application for Co-op, Former Daruchini, Forest Road, Binfield, Berkshire. RG42 4HP shall be granted, in line with the mandatory conditions and conditions consistent with the Premises Operating Schedule at Annex O of the agenda papers.

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the applicant's representatives Mr Jon Wallsgrove, and Mr Simon Hallam; for Southern Co-operative;
- the interested parties (2) who submitted oral and written representations, and nine other written representations, including one which was submitted as part of a petition with 229 signatures.

together with reference to the Licensing Objectives: Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, particularly noise nuisance, and Protection of Children from Harm, the Council's own Licensing Policy and the Secretary of State's guidance.

The Panel noted that none of the responsible authorities had made representations. The Panel were advised that there had been a notice erected at the premises and that the Responsible Bodies, such as the police, had received a notice of the new

application for Co-op, Former Daruchini, Forest Road, Binfield, Berkshire. RG42 4HP. The police had confirmed that they had no objection to the licensing application in question.

At the conclusion of the licensing panel, having heard from participants present, the participants and the applicant confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted the concerns of the public representations, which included:

Crime and Disorder

- Whilst acknowledging that the new licence application showed a reduction in the current licence conditions, when compared to the previous application in relation to Daruchini Restaurant serving Indian food, concern was raised in relation to the purchase of alcohol for consumption outside of the premises, in the car park, and in the surrounding community, particularly after 21:00 in the evenings.
- There was reference to a ram raid at the Spar and Post Office and other retail units in the area being broken into on Forest Road. Concern was raised that the late opening hours of the premises would provide further opportunity for anti-social behaviour leading to crime and disorder.
- There were a number of outlets and public houses selling alcohol in the area already and adding to this number was thought to result in more consumption of alcohol and social disruption. Although, at this point the objectors were unable to lead with actual evidence that it was happening currently.

Public Safety & Sale of Alcohol

- The Co-op would provide a retail facility including the sale of alcohol until 23:00. The availability of inexpensive alcohol for sale late at night was a concern. It was thought to be a detriment to public safety and could contribute to an increase in crime and disorder in the nearby community. Thought was particularly given to elderly and vulnerable residents in the area.
- There could be an increase in traffic with many vehicles frequenting the site for short periods of time. It was thought that the premises in question could attract more people to the site for the purchase of alcohol therefore increasing the levels of traffic in the area, and particularly causing congestion close to the village roundabout which already experienced congestion at certain times of day. Public buses and HGVs were said to have trouble navigating the corner near to the premises.

Prevention of Public Nuisance

- Young people would have an opportunity to purchase inexpensive alcohol late at night and to congregate outside the premises, for instance in the car park. Pubs in Binfield were within walking distance of the premises and had outside areas. There was a concern that people could purchase alcohol from the premises in question and return to the local pubs to consume it.
- Sale of alcohol was suggested to be between 08:00 and 21:00, in line with the opening hours of the other two licensed retailers in the area. Also suggested was the condition that alcohol should not be consumed on the site including the car park area.
- Previous premises licences of this site permitted on and off sales of alcohol until 23:00 Sunday to Thursday and 00:00 Friday to Saturday. Concern was raised about changing the licence conditions to only being consumed off site and the possibility of this encouraging irresponsible drinking and putting

young people at risk by being able to purchase alcohol. The site location was high profile to passing traffic making it easy for anyone to stop.

- The Spar in Binfield closed at the earlier time of 21:00 on weekdays and 20:00 on weekends.

Protection of Children from Harm

- The car park at the premises was used by parents dropping their children off at a local primary school at school start and finish times during the day. The restaurant on the site was closed during this time but a convenience store would be open during this time leading to increased traffic and a safety risk for children.

The Panel took into consideration the oral submissions of the applicant's representative which included:

- Southern Co-operative had just under 200 stores operating throughout the south and in neighbouring counties but this store was a separate store with its own policies and procedures regarding the sale of alcohol which would be made by the company individually rather than Southern Co-operative as a whole.
- The store would primarily be a convenience store and the sale of alcohol was an ancillary part of the business. There were clearly defined points for staff to follow.
- A full colour CCTV system would be put into place and external cameras to the front of the shop and the car park.
- Alcohol, such as beers and wines, would be located away from the entrance to the store and there would be no display of alcohol on the fixtures near the doors, with the possibility of opportunistic thieves in mind.
- The store would operate a Challenge 25 policy with badges and notices up around the store and at the till so that people would know they would be challenged and what identification would be acceptable.
- Training would be undertaken by the personal licence holder at the store; they would undertake initial training on the knowledge of policies and law in relation to their role and then would be shadowed to start with.
- Each staff member would have a PIN code which they would use at the till; it was a sophisticated tool. There would be an electronic log of every sale refused. Staff would be required to complete logs regarding Challenge 25 refusals of sale and the description of the people concerned, to allow the DPS to see if particular people were frequenting the store at particular times of the day. If they were, staff rotas could be adjusted to ensure senior staff were present to challenge the attempted under age sales.
- The staff would be subject to performance reviews by the DPS and staff would be appraised, for example, visually to see if they challenged people as appropriate.
- Southern Co-operative would ensure that policies were implemented and checks would be undertaken to ensure that notices were displayed.
- There would be security on the site for the first two to four weeks after opening. A risk assessment had been undertaken and the store could trade without a security guard, so there was no long term plan to use security at the store other than just to start with. However, were there incidents of attempted under age sales or issues related to alcohol purchase the company would respond accordingly.
- Southern Co-operative had a close relationship with the communities in which they were a part and worked with police on, for example, Challenge 25 roadshows. The store would have leaflets for people needing to apply for

identification. Southern Co-operative took part in Facewatch and the Business Crime Reduction Partnership. The same level of communication could be expected from the store in Binfield as of other Southern Co-operative stores in the south.

- The store would aim to employ and provide jobs for approximately 20 local people and their local knowledge would be useful in running the store. Southern Co-operative had care for working with residents and Responsible Authorities. This should cancel out the locals concerns that at other shops local people worked and so recognised the people who may attempt inappropriate alcohol purchases.
- If Co-operative staff allowed people to drink outside the store this would be detrimental to the Co-op. Managers of Co-op stores were aware of this and were proactive in ensuring that people moved on, so as not to deter customers using the store. The Co-op wanted the store to be an attractive place to visit and staff would ensure that the area outside the store, such as the car park, was free from litter.
- All public houses could sell alcohol for use off the premises until 23:00.

The Panel took into consideration the representations made in relation to traffic and parking including the representation that the car park of the Co-op was currently and historically used as a drop off and collection point for the local primary school. However, the concerns did not come anywhere near meeting the threshold that they would undermine the four licensing objectives. It would be for the Co-op with their CCTV and managers to prevent people using the car park for dropping off and picking up children from school. From the representations made, the Panel had confidence that the applicant would recruit staff who would be instructed to ensure that the site, as a licensed premise, within their sphere of control was well managed and people abusing the site would be challenged. If that was not the case then the license could be called in for a review by anybody.

The Panel needed to consider the operation of the convenience store as a shop and the licensable activity of the store when making a decision.

The Panel decided that granting the new premises licence, in line with the mandatory conditions and conditions consistent with the Premises Operating Schedule at Annex O of the agenda papers, would promote the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, and Protection of Children from Harm. The Panel found no evidence to justify refusing the new application or any reason to impose any additional conditions in relation to the hours for the sale of alcohol.

If in the future there were any concerns which would have an adverse effect on the Licensing Objectives, the case could be reviewed by a Licensing Panel. In reaching its decision, the Panel took into consideration that the Co-operative store would trade as a responsible body, had a clear plan and policies in place to deal with any issues, and may choose to close for business earlier than 23:00 if custom was quiet in the lead up to this time in the evenings.

The decision making process was a matter of judgement by the Panel having weighed all the evidence provided by the interested parties and the applicant's representative the evidence came down clearly in favour of granting the licence. The applicant had clearly addressed their minds to the processes and policies required to ensure that the licensing objectives were promoted. It had to be recognised that whilst the objectors significant in number raised objections under the 4 licensing objectives, the evidence in support of the objections had little evidential support and when weighed in the balance carried little weight and cogency. A considerable

amount of the representations by the objectors did not relate at all to the licensing objectives. They related to fear of competition by what they perceived to be corporate giants coming into their community. This was not a matter that the panel could consider as it did not relate to any of the licensing objectives.

The Panel took into consideration that none of the responsible authorities had made representations, particularly the police who had the statutory lead on crime and disorder issues. The panel noted that the applicant had spoken with the police in addition to sending in their paper application and the police were satisfied with the application. If the police had raised issues the outcome may have been different, however, having been given every opportunity to make representations or objections the Panel must give the fact that they chose not to, the weight it deserved.

The Panel wished to make it clear that it did not mean that had the police objected the licence would not have been granted, but it did mean that police objections must be given weight as they were the agency charged with dealing with crime and disorder. The Panel also noted that the other responsible bodies had not raised any objections either. The Panel were aware that there were a large number of objections and that those objections were coordinated. However, despite many people saying the same thing the objections were broadly based on what might happen rather than what would happen and were very repetitive. Repetition in itself, does not add to cogency if the substance was all based on remote possibilities rather than actualities. The one thing that was alleged to actually be happening at the moment was the school parking at and around the site of the licensed premises, and that in the view of the Panel was well within the power of the applicant to resolve. The Panel formed the view based on the representations that were led by the applicant that they would not hesitate to stop their car park being used by people other than their patrons.

At the hearing there was an issue raised about the extent of the car park space that would be within the licensed premises control. The Panel were satisfied that whatever the extent of the car park the applicant would ensure that it was used only for patrons of the licensed premises.

This was a case where the balance lay with granting the licence and if any of the concerns the objectors raised about the 4 licensing objectives actually happened they could seek a review of the licence.

CHAIRMAN

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