

Licensing Sub Committee B - 23 August 2022

Minutes of the virtual meeting of the Licensing Sub Committee B held on 23 August 2022 at 6.30 pm.

Present: **Councillors:** Valerie Bossman-Quarshie, Ben Mackmurdie and Phil Graham

Councillor Valerie Bossman-Quarshie in the Chair

- 19 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Bossman-Quarshie welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.
- 20 **APOLOGIES FOR ABSENCE (Item A2)**
Apologies for absence were received from Councillor Nathan.
- 21 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
Councillor Graham substituted for Councillor Nathan.
- 22 **DECLARATIONS OF INTEREST (Item A4)**
None.
- 23 **ORDER OF BUSINESS (Item A5)**
Item B2 had been withdrawn from the agenda. The order would be B1 and B3.
- 24 **MINUTES OF PREVIOUS MEETINGS (Item A6)**
RESOLVED
That the minutes of the meetings held on the 18 May 2022 and 16 June 2022 be confirmed as a correct record and the Chair be authorised to sign them.
- 25 **CO-OPERATIVE FOOD GROUP LIMITED, 303-311 CALEDONIAN ROAD, N1 1DT - PREMISES LICENCE VARIATION (Item B1)**
The licensing officer introduced all parties. He confirmed that there was an additional submission from the resident in attendance and this had been circulated to all parties. There were also additional submissions from the applicant which had been circulated to all parties.

The licensing authority stated that the hours being sought were outside the core hours of 8am-11pm outlined in the licensing policy. Concern was raised about noise and emissions from delivery vehicles as the premises were in a residential area with a housing estate to the rear of the store. Concern was raised that in the application,

the applicant had not demonstrated how there would not be a negative impact on the area. It was suggested that if the application was granted, conditions be added to the licence to require vehicles used for pre-ordered deliveries to have non-combustion engine vehicles and for there to be controls on drivers as an outside agency would be used.

A local resident proposed conditions outlined in her submission to mitigate against noise. These included bulk delivery and waste collections to take place between 9am and 5pm, no more than eight deliveries to take place between 11pm and 7am, all pre-ordered deliveries to be delivered by electric or non-motorised vehicles, no trolleys or rack systems to be used, no playing of music or phones to be used outside the store and no waiting or smoking outside the premises. She stated that delivery drivers should have access to a waiting area with water and toilets. The resident stated that her neighbours also had concerns and had submitted representations.

The applicant's legal representative stated that the Co-operative Food Group had 2,500 stores with many in London. The Caledonian Road store was classified as a local convenience store. Alcohol sales at this store represented 11% turnover which was low for this type of store. There were 28 members of staff including five personal licence holders as well as security staff. There was CCTV, the store operated a Challenge 25 policy, trained staff and cared about the community. The variation sought was to sell alcohol for pre-ordered delivery only.

The applicant's legal representative stated that at 11pm, the store would be closed to customers with the shutters down and lights off. The sale of alcohol would be subject to bespoke conditions for pre-ordered delivery only and the store would not sell to walk-in customers. Deliveroo was the delivery partner and the Co-operative had been offering pre-ordered deliveries during the night for the last six months. Delivery drivers usually came on bicycles or mopeds.

The applicant's legal representative stated that conditions had been agreed with the police. The applicant was also working with the police to agree conditions for use across London. The Sub-Committee was advised that customers would order on the App, staff would make up the package and give it to the delivery driver. The delivery drivers were tracked so it would be known when they would be nearby and deliveries would be ready for them so they would not be kept waiting.

The applicant's representative stated that the Sub-Committee should only make a decision on the elements that the application sought to change. He stated that the reason this application fell outside of policy was the policy was drafted before deliveries became popular and that the applicant had demonstrated through the conditions that there would not be a negative impact on the area. The applicant's representative stated he had spoken to the resident and the applicant would be meeting with the resident to discuss her objections. The Co-operative had been delivering during the night for six months and had had no complaints. If the Co-operative raised concerns about any Deliveroo driver, this driver did not continue to

deliver from the stores. Although the Co-operative was working towards using non-combustion engine vehicles, it could not yet commit to this.

Referencing Representation 3 from a resident, the applicant's representative stated that if delivery drivers were riding in contravention to the law, this was a police matter.

The applicant's representative stated that there were conditions to address the concerns of Trading Standards.

In response to a member's question as to why the applicant could not commit to using delivery vehicles with non-combustion engines when other businesses in Islington who used Deliveroo and other delivery partners had done so, the applicant's legal representative stated that he was unable to commit on the applicant's behalf.

In response to a member's question about who the Co-operative expected to order alcohol between 11pm and 7am, the applicant's legal representative stated that it was not presumed that people would consume the alcohol between these times; many people worked shifts or ordered groceries at unusual times.

A member asked for clarification about how the applicant was engaging with the resident and was advised that the applicant would be meeting her the following week to discuss her concerns. It might be possible to bring forward main delivery times so they were not too late in the evening.

In response to members' questions about waiting times, the Area Manager stated that once the Co-operative was notified that a customer had ordered on the App, they had 15 minutes to prepare the groceries for delivery. If a driver waited more than one minute at the premises, the store would be penalised so there would be no drivers kept waiting. The Area Manager looked after 20 stores and 6 of these including one on The Strand offered 24 hour delivery. Some of these stores were in residential areas and there had been no issues. The applicant's legal representative confirmed that deliveries from the store would take place from the front entrance on Caledonian Road. It was projected that there would be 12-15 deliveries per night.

In response to a member's question as to whether the only delivery partner would continue to be Deliveroo, the applicant's legal representative stated that the Co-operative would not jeopardise its reputation and would only use delivery partners with high standards.

In summary, the licensing authority stated that using the front entrance for deliveries would reduce noise nuisance and suggested a scheme of work for delivery drivers. If a maximum order number was conditioned, this would be hard to police.

In summary, the local resident stated that she had concerns about health, the staffing model, the premises operating 24 hour a day and stated that conditions should be put on to prevent issues.

In summary, the applicant's legal representative stated that it was anticipated that the number of deliveries would continue as currently.

RESOLVED that the application for a variation to the premises licence in respect of Co-Operative Food Group Limited, 303-311 Caledonian Road, N1 1DT be granted:-

To extend the sale of off sales of alcohol from the premises between the hours of 11pm and 7am Monday to Saturday and between the hours of 10.30pm and 7am on Sundays for pre-ordered delivery only.

Conditions detailed on pages 42 to 43 of the agenda shall be applied to the licence.

The following additional conditions be applied to the licence:

- Only non-combustion engine vehicles be used for pre-ordered deliveries between the hours of 11pm and 7am Monday to Saturday and between the hours of 10.30pm and 7am on Sundays.
- All pre-ordered deliveries to be collected from the front of the premises on Caledonian Road between the hours of 11pm and 7am Monday to Saturday and between the hours of 10.30pm and 7am on Sundays.

Reasons for Decision

This meeting was facilitated by Zoom.

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policies 2 & 3. The premises fall within the Kings Cross cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The Sub-Committee took into consideration Licensing Policy 4. The Council has adopted a special policy relating to cumulative impact in relation to shops and other premises selling alcohol for consumption off the premises. Licensing policy 4

creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Five local resident objections had been received. Representations had been made by three Responsible Authorities and at the time of the hearing only the Licensing Authority's representation remained.

The Licensing Authority submitted that the premises was in a highly residential area and there was concern about noise and emissions from delivery vehicles and how the premises would control the delivery drivers. The Licensing Authority indicated that the proposed supply of deliveries using the front door of the premises would alleviate nuisance to residents living behind. The Licensing Authority considered whether it would be appropriate to suggest a condition limiting the number of orders per night but concluded that this would be difficult to police.

The Sub-Committee noted the residents' concerns regarding noise nuisance from delivery vehicles and the potential impact on the licensing objective to prevent public nuisance.

The applicant submitted that deliveries of groceries from the premises had already been taking place for six months without complaints. Deliveries from the premises were made by Deliveroo and the projection was for there to be 12-15 deliveries per night. The deliveries were notified to the premises via an App and the delivery was ready for the driver to collect from the front of the premises. Deliveroo were responsible for the management of their drivers and if the premises had any reason for complaint, a driver would not be despatched to the premises again. The applicant indicated that they were unable to commit at the present time for all deliveries from the premises to be from non-combustion engine vehicles.

The Sub-Committee concluded that the granting of the licence with the agreed conditions would promote the licensing objectives.

The Sub-Committee noted that the applicant did not want to give a commitment to using non-combustion engine vehicles for deliveries at the current time, however, the Committee concluded that it was proportionate to impose this condition as it would address concerns raised by the Licensing Authority and residents. The premises was proximate to a number of residential premises and in order to promote the licensing objective concerning public nuisance, it was necessary to impose this requirement. Furthermore, the applicant was providing deliveries via Deliveroo which was able to provide a large number of drivers so that this condition was not too onerous. The applicant advised that deliveries were from the front of the premises and in light of the protection that this would offer the residents the Sub-Committee decided that it was reasonable to impose this as a condition. The Sub-Committee noted the Licensing Authority's reservation regarding a condition to

limit the number of deliveries and in view of the anticipated number of deliveries per night, the Sub-Committee concluded that it was not appropriate to apply a condition to restrict the number of deliveries.

The Sub-Committee was satisfied that the proposed operation with the agreed and additional conditions meant that the premises would not add to the cumulative impact.

The Sub-Committee was satisfied that granting the premises licence was proportionate and appropriate to the promotion of the licensing objectives.

26 **CO-OPERATIVE FOOD GROUP LIMITED, 94-98 TURNMILL STREET, LONDON, EC1M 5QP - PREMISES LICENCE VARIATION (Item B2)**

This item was withdrawn from the agenda.

27 **CHEATMEALS, COMMERCIAL UNIT, 367 HOLLOWAY ROAD, ISLINGTON, LONDON, N7 0RN - NEW PREMISES LICENCE (Item B3)**

The Licensing Officer stated that the applicant was not in attendance.

RESOLVED:

That this item be adjourned to a future meeting to enable the applicant to attend.

The meeting ended at 7.45 pm

CHAIR