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29th June 2006

**APPLICATION FOR THE VARIATION OF A PREMISES LICENCE AT CARDIGAN ROAD
LATE STORE, 132 CARDIGAN ROAD, LEEDS, LS6 1LU**

On 19th June 2006 the Licensing Sub Committee heard an application by the Leeds Cooperative Society Limited for the variation of a premises licence at the above premises.

The applicant sought the following:

Supply of alcohol (for consumption off the premises:)

Monday to Sunday 00:00 hours until 24:00 hours

The applicant proposed to open the premises to the public during the following times:

Monday to Sunday 00:00 hours until 24:00 hours

This letter represents the formal decision of the Sub Committee in respect of the application.

Preliminary Procedural Issues

The Sub Committee considered preliminary matters of a purely procedural nature. There were no declarations of interest made.

The Sub Committee then decided that the procedure for the hearing would not be varied. The Sub Committee also considered if the public should be excluded from any parts of the hearing.

The Sub Committee decided to exclude the public from that part of the hearing where Members would deliberate on the application as presented. This would allow them to have a full and frank discussion on all matters put before them and this fact outweighed the public interest in not doing so.



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Prior to the hearing the Sub Committee had considered the Licensing Officers Report and the written representations received from, LCC Environmental Health and local residents (as detailed at Appendix A.)

The Sub Committee permitted each party 10 minutes in which to make their case. This time limit was imposed having regard to the relevant Regulations and in the interests of consistency and the efficiency of business.

The Sub Committee then went on to consider the application.

The Hearing

The Sub Committee considered the verbal submissions of the applicants solicitor, Mr Cowell, which addressed the application and the comments of the interested parties.

In determining the application the Sub Committee took into account written submissions from the above responsible authorities contained within the report and the Notices of Hearing. These had been circulated to the Parties prior to the hearing.

After considering the evidence and submissions the Sub Committee needed to satisfy itself that granting the licence would promote the licensing objectives.

In reaching this decision the Sub Committee had regard to the provisions of the Licensing Act 2003, guidance under Section 182 of that Act and the Council's own Licensing Policy.

In particular the Sub Committee took into account Sections 34 & 35 of the Act because these were the most relevant to the application and Chapter 7 of the Guidance relating to the prevention of crime and disorder, public nuisance and public safety

The Sub Committee then went on to consider the following paragraphs of the Licensing Policy as the Sub Committee took the view these paragraphs had bearing on the application.

11:05 to 11:10	Crime & Disorder
11:11 to 11:22	Public Safety
11:23 to 11:28	Public Nuisance

Reasons for the decision

The following interested parties attended the hearing:

Mr Halliwell, Environmental Health
Mr Cowell, Solicitor representing the applicant
Mr Scott, applicant
Mr Jarrett, applicant
Miss Barlow, local resident

The Sub Committee began by considering the verbal submissions of Miss Barlow, a local resident speaking against the application. Miss Barlow began by stating that she was speaking on behalf of the long term population of the area before going on to describe the problems caused by the large, transient student population.

Members heard Miss Barlow refer to an alleged increase in anti-social behaviour in the area, which some residents feared would be exacerbated should alcohol become available for twenty four hours at the local Co-op. Whilst Miss Barlow acknowledged that the Co-op were

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a responsible retailer with a positive contribution to the local community, they could not be responsible for individuals' behaviour outside of the store. Aside from this, the area already suffered from traffic congestion, particularly due to haphazard parking around the Co-op store, which would be worsened should longer opening hours be permitted. Miss Barlow concluded by urging the Sub Committee to balance the request of the retailer with the needs of the local community.

The Sub Committee considered the verbal submissions made by Roger Halliwell in support of the qualified objection made by Environmental Health to the application. Mr Halliwell began by explaining that the objection had been made due to the number of residential properties in close proximity to the store. The three suggested conditions from Environmental Health attempted to tackle the issues of delivery times, noise levels and litter.

Mr Halliwell had been informed that deliveries to the premises had historically taken place between 06:00 hours and 22:00 hours. As Environmental Health had received no complaints to this effect, Mr Halliwell stated that he was willing to amend the condition to read 06:00 hours instead of 08:00 hours. Similarly, although no complaints had been received regarding noise from the air conditioning and refrigeration units, Environmental Health felt that as the store had applied to open for twenty four hours that the condition regarding noise levels was reasonable. Mr Halliwell concluded his submissions by informing the Sub Committee that the third condition regarding control of litter had been accepted by the applicant.

Finally the Sub Committee turned to the submissions of the applicant's Solicitor in support of the application. Mr Cowell began by stating that the premises had been trading for many years and currently had a licence to supply alcohol until 23:00 hours, whilst the store opened until midnight. The application for twenty four hour opening had been made due to customer demand, particularly from shift workers living and working in the area. Mr Cowell stated that trade from the student population only amounted to around thirty percent of overall sales.

Turning to address the points made by Environmental Health in their representation, Mr Cowell reiterated that deliveries were currently made between the hours of 06:00 and 22:00 hours, with the exception of newspapers which were delivered in the early hours of the morning. If the condition relating to deliveries could be amended to cover the loading bay only, Mr Cowell stated that the condition would be acceptable to the applicant. On the issue of noise from plant and machinery, Mr Cowell informed the Sub Committee that the refrigeration equipment was currently operative for twenty four hours and no complaints had been received. On the issue of litter, Mr Scott, the applicant, informed the Sub Committee that the premises had received a Tidy Business award from Leeds City Council.

Addressing the concerns of local residents objecting to the application, Mr Cowell stated that the store had never received any complaints from local residents and every effort was made to work with the local community. West Yorkshire Police had raised no objection to the application. The premises had CCTV cameras and security lighting installed and all staff were fully trained on the issue of age related sales. It was company policy not to supply alcohol to intoxicated persons and a refusals book was kept to this effect. Whilst reports of anti-social behaviour in the locality were regrettable, there was no evidence to link such behaviour with the Co-op store, Mr Cowell concluded.

The decision

The Sub Committee were largely persuaded by the applicants submissions that granting the application would not undermine the promotion of the prevention of crime and disorder objective as evidenced by the submissions of the applicant's representative and the absence of any objection from West Yorkshire Police.

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Therefore the Sub Committee resolved to grant the application for the variation of a premises licence, as requested. However, Members did voice concerns in relation to the qualified objection made by Environmental Health. The Sub Committee felt that the points raised by Officers were valid and therefore also imposed the three amended conditions relating to the prevention of noise nuisance, as suggested by Environmental Health. This was considered to be reasonable and proportionate given the number of residential properties in close proximity to the premises.

Conditions

- All deliveries to and from the premises via the loading bay shall be restricted to 06:00 hours to 22:00 hours each day;
- Ensure that the rating level of noise from plant and machinery is no higher than 5dB below the lowest background level at the most affected noise sensitive premises during the operation of the plant. Plant and machinery shall be regularly serviced and maintained to continue to meet the rating level;
- Ensure that business waste is stored inside closed containers awaiting collection; that litter arising from people using the premises is cleared away regularly; that promotional materials such as flyers do not create litter; and that other street advertising is carried out lawfully.

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the Sub Committee. You must make this appeal within 21 days of this letter reaching you.

Appeals should be addressed to the Magistrates Court at:

Clerk to the Justices
Leeds Magistrates Court
Westgate
Leeds
LS1 3JP

and accompanied by a copy of this decision letter and the court fee of £75.00.

Yours faithfully,

Hannah Bailey
Clerk to the Licensing Sub Committee

Appendix A

J Kent
L Combes & J Gardener
M Cook
H White
C Foren
A Tobin
S Thomas & G Barlow