



Minutes of the Licensing Panel

*Minutes of a meeting held on 25 July 2012
at the Civic Offices, Fareham*

PRESENT:

Councillor Mrs M E Ellerton
(Chairman)

Councillors: Mrs K Mandry and D J Norris

DECISIONS UNDER DELEGATED POWERS

**1. APPLICATION FOR VARIATION OF PREMISES LICENCE – THE CO-OP
FOOD STORE, HIGHLANDS SERVICE STATION, 165 HIGHLANDS ROAD,
FAREHAM**

At the invitation of the Chairman, the Panel was joined by the following persons:-

Representing The Co-op Food Store

Mr Richard Arnott, Solicitor;
Mr Bill Landy, Store Manager.

Interested Parties

Mrs Tina Ellis, resident of 173a Highlands Road
Councillor Leslie Keeble, resident of 173b Highlands Road

It was made clear by Councillor Keeble that he made his representation as an individual / member of the public / resident and not in any formal capacity whatsoever. He also declared a pecuniary interest insofar as his property is very close to the premises and naturally shall be affected by the determination. In accordance with the member code of conduct he was allowed to remain and make representations as would any other member of the public. As this is a Licensing Act 2003 hearing the Panel retire to discuss / make deliberations in any event.

The Panel members

The Panel had before it a report by the Licensing Officer regarding the application from Somerfield Stores Limited for the variation of the Premises Licence at Co-operative Food, Highlands Service Station, 165 Highlands Road, Fareham. A copy of the Hearing Procedure for the variation application from Somerfield Stores Limited, in accordance with the Licensing Act 2003, had been made available to all parties at the meeting.

The Panel's attention was drawn to the application for variation of the premises licence received from Somerfield Stores Limited and attached as Appendix B to the report. It was noted that a copy of the report had been circulated to Panel members, the Applicant and the interested parties who had made representations in advance of the meeting.

With the agreement of all parties, a more detailed plan of the location of the premises was circulated at the meeting.

The Panel considered the application in accordance with the agreed hearing procedure as follows:-

- (i) The Chairman of the Licensing Panel invited the Panel members, the Parties and officers to introduce themselves. The Chairman also outlined the procedure that was to be observed.
- (ii) The Chairman asked the applicant whether any modification was to be made to the application.
- (iii) The Licensing Officer presented a summary of the application and of the representations received from the interested parties and their relevance to the Licensing Act 2003 and the Council's Licensing Policy.
- (iv) The applicant commented on the application and on the representations made, addressing the four licensing objectives.
- (v) During the course of the hearing, the Panel sought clarification of points and asked questions of the representatives of the applicant.
- (vi) The interested parties were invited to ask questions relating to the application.
- (vii) The interested parties commented on the application and on the representations made addressing the four licensing objectives.
- (viii) The Panel asked questions of the interested parties to seek clarification of points raised.
- (ix) The representatives of the applicant were invited to ask questions relating to the representations.

- (x) The interested parties made a closing statement.
- (xi) The representatives of the applicant made a closing statement.

The Licensing Panel then withdrew from the room to deliberate in private on the application. Having considered the representations made, the Panel returned to the hearing and all parties were advised that the decision of the Panel was as follows.

RESOLVED that:-

Decision

DECISION OF THE LICENSING PANEL REGARDING THE VARIATION OF THE PREMISES LICENCE FOR THE CO-OP FOOD STORE, HIGHLANDS SERVICE STATION, 165 HIGHLANDS ROAD, FAREHAM

It was made clear by Councillor Keeble that he made his representation as an individual / member of the public / resident and not in any formal capacity whatsoever. He also declared a pecuniary interest insofar as his property is very close to the premises and naturally shall be affected by the determination. In accordance with the member code of conduct he was allowed to remain and make representations as would any other member of the public. As this is a Licensing Act 2003 hearing the Panel retire to discuss / make deliberations in any event.

The Panel has considered very carefully the application for the variation of the premises licence.

It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human rights legislation has been borne in mind whilst making the decision.

It has paid due regard to all evidence both written and given orally today.

It was noted that there were no representations from either the police or the environmental health department.

In consideration of all of the above the Panel has determined that the Premises Licence shall be varied as applied for.

REASONS

The Panel considered very carefully the residential concerns regarding the premises and in particular those elements relating specifically to the four licensing objectives, in doing so it accepted legal advice that the Panel could only concentrate its mind on those issues alone. In considering the evidence the Panel had to determine a causal link between the incidents raised and the premises in question. On the balance of probabilities it was not satisfied that the full extent of the issues raised could be tied to the premises and, in particular, the licensable activity applied for (sale of alcohol). The Panel gave very careful consideration of the evidence presented and, whilst it may sympathise with those raising concerns, it was not satisfied that the evidence was sufficient to warrant a refusal or imposition of any condition. Legal advice was accepted that commercial need or demand were not relevant considerations when determining the matter. The Panel carefully considered the extent to which the proposed licensable activity (specifically) would impact upon or affect the licensing

objectives, rather than the general operation of the store, and determined that the impact would in this respect be minimal if at all.

Argument was raised that the premises are a "garage" and therefore should not be allowed to sell alcohol. The Panel makes no determination on the point having heard no substantive evidence from any of the parties on the point. Further, this being an application to vary an existing premises licence, it is not considered appropriate for such determination to be made at this stage in any event. The matter is a point / issue of enforcement. It is understood by the Panel that an appropriate determination was made when the licence was initially granted.

There is a right of appeal to the Magistrates' Court of the decision. All parties will receive written notification of the decision and that notice shall set out the right of appeal.

(The meeting started at 10:00am
and ended at 12:50pm)