

DURHAM COUNTY COUNCIL

At a Special Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Thursday 22 August 2019 at 10.00 am**

Present:

Councillor L Marshall (Chair)

Members of the Committee:

Councillors D Brown and D Hicks

Also Present:

C Hazell (Council's Solicitor)
K Robson (Senior Licensing Officer)
Mr Modammadi (Applicant)
Mrs Modammadi (Applicant)
Mr Modammadi Junior (Applicant)
Mrs Rai (Other Person)
Ms Temple (Other Person)

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute members in attendance.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Grant of a Premises Licence - Eco Supermarket, Unit 1 Old Co-op Buildings, Front Street, Langley Park, Co Durham

The Committee considered the report of the Senior Licensing Officer regarding an application for the grant of a premises licence in respect of Eco Supermarket, Unit 1 Old Co-op Buildings, Front Street, Langley Park (for copy of report, see file of minutes).

A copy of the location plan and application form had been circulated.

The Senior Licensing Officer stated that the application was for a new premises licence as the owner of the premises did not transfer the current licence within the prescribed 28 days.

The Applicant had provided 6 letters of support, all of which had been validated by the licensing authority.

During the consultation period 3 letters of representation had been received which included a petition. The Licensing Authority could not validate the petition as there were no addresses or telephone numbers to contact the individuals.

Durham Constabulary had mediated with the applicant within the consultation period and had agreed additional conditions. County Durham and Darlington Fire and Rescue Service, Durham Safeguarding Children Partnership, Durham County Council's Environmental Health Department and Durham County Council's Public Health Department had confirmed that they had no comments to make in relation to the application.

Councillor Brown referred to the location plan and sought clarification if the Front Street was an L shape. The Applicant confirmed that it was.

Mrs Rai, an other person addressed the Sub-Committee and indicated that since the Co-op store had closed, children asking for alcohol had stopped. She had personally witnessed children shoplifting from the Co-op store. Her shop was constantly targeted, and she had been accused of selling alcohol to children, but she assured the committee that the alcohol was not coming from her shop and she had the CCTV footage to prove this. Since the Co-op store had closed, she had not had to check her CCTV footage to prove to parents that she had not served alcohol to their children. She was happy for them to open a store but not with an alcohol licence.

Ms Temple, an objector indicated that she had heard parents blame Mrs Rai for serving alcohol to children, but she assured Members it was not Mrs Rai.

Mrs Rai indicated that she had been targeted by the Police even if they were carrying a Co-op bag, they would go to her shop first which was around the corner from the Co-op.

Ms Temple indicated that children hung around the back street as they could not be seen and targeted people to go into the Co-op to purchase alcohol for them.

The Chair asked Mrs Rai if she had an alcohol licence and that her objection was for the sale of alcohol and not the shop.

Mrs Rai confirmed that she had a licence to sell alcohol in her shop and was only objecting to the sale of alcohol and not the shop.

Councillor Brown asked how long Mrs Rai had been in business. She responded that she had operated the premises since 2008 and that she had taken over the shop from a previous owner.

Councillor Brown asked if the Co-op had been open during this period. Mrs Rai confirmed that the Co-op had been open.

In response to a question, Mrs Rai confirmed that children did not congregate outside her shop as there was nowhere to hide. She did not know where the children had gone since the Co-op closed and she had not recorded as many incidents in her refusal register. She also advised that the police had never visited her shop since the Co-op closed.

Councillor Brown asked if the surrounding areas were heavily populated with licensed premises.

Mrs Rai responded that the Spar and another Co-op had a licence and 2 pubs and 2 clubs so there was enough alcohol in the village as they did not need any more. The stores currently do not have price wars but if this licence was granted and offered special prices this could cause price wars and children would come back into the village to purchase alcohol.

Mrs Modammadi, the applicant addressed the Sub-Committee and indicated that the objections were based on the effect on their businesses rather than their proposal. They had adhered to all the requirements for the licence. They completed all the courses and made sure arrangements were in place for all the training, they had consulted with all the bodies and none had raised any objections to the application.

They had operated in the village for a long time, they had been asked not to open by other shop owners as it would impinge on their lifestyle. They had adhered to everything in the legislation and felt that the objections were vexatious because of their own business and were objecting for competition purposes. They were opening a supermarket as people in the village had asked them to. The Co-op had been in the village for over 100 years and residents wanted another supermarket rather than anything else.

They did take loitering concerns seriously and had adhered to all the requests and had installed extra cameras which covered all the entry and exits. They had complied with all licensing requirements and the shop had

been inspected by the Fire Officer and had been approved and everything was new.

Mr Modammadi indicated that they owned the building, so they had to do something with the building when the Co-op left. Older people had said that they could not walk down to the bottom of the village and would like a supermarket to re-open. The local police officer had advised him that there had not been a single report of anti-social behaviour around the Co-op in the last 5 years. A lot of residents were in support of the shop and 6 letters of support had been provided from people in the village. There was nothing in the objections against the licensing objectives.

They had planned to open the shop in early May but had been contacted by one of the objectors who had asked him to let him have the shop and he would let him have the pizza shop as he wanted to open a furniture shop. He had said no to this proposal as the supermarket had been in the village for 100 years and was what the residents wanted. Another objector had indicated that they would not be able to pay their mortgage, so the objections were about competition not the licensing objectives. He stated that the Co-op had been in the village before anyone else, so he did not know why they had to be penalised.

Mrs Modammadi indicated that they were trying to keep the village alive, they sponsored the local football team as it was important for them to give back to the community. The residents had asked for a supermarket, the Front Street runs 2 ways and there are a lot of bungalows whose residents can't walk that far to get to the other shops. She was willing to take on board anything suggested, authorities were happy with the proposal and she presented her case on the licensing objectives rather than competition.

Mr Modammadi Junior indicated that the application puts forward all the measures to fulfil the licensing objectives including public nuisance and the safeguarding of children. All responsible authorities had agreed to the application. He referred to the statement that the premises would affect businesses already in the village, but the Co-op had been there for 136 years, so was in existence when the objector's premises opened in the village. They had met the licensing objectives and the objections were vexatious.

In response to a question, the applicant confirmed that the premises were not open yet and the Co-op closed in March of this year and provided Members with the proposed opening hours of the premises.

The Senior Licensing Officer referred to the consultation period and advised that Durham Constabulary would have spoken to the local beat officer and would have raised objections if there were any issues in the area. She

advised Members that reference to too many shops in the area needed to be disregarded.

In summing up, Mrs Rai stated that the elderly went past her shop to get their pensions. Her premises had wheelchair access while Eco Supermarket didn't, her mortgage had nothing to do with her objection. She was concerned that she would be targeted by the police again should the licence be granted.

Mr Modammadi Junior responded that the police had suggested CCTV cameras and they had installed 2 instead of 1 just in case one was damaged. CCTV would also be in the alleyway next to the building and the front and back entrance. An incident log would also be kept, and CCTV footage would be provided if required at any time, so there would be recorded evidence, so they did not feel this was an issue.

Mr Modammadi stated that according to the police there had been no incidents in the last 5 years and the police had not objected to the application.

At 10.30 am the Sub-Committee **Resolved** to retire to deliberate the application in private.

After re-convening at 10.40 am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer, the verbal and written representations of other persons and the Applicant. Members had also taken into account the Council's Statement of Licensing Policy and S182 Guidance issued by the Secretary of State.

Resolved: That the application for a Premises Licence be granted subject to a number of conditions as follows:

Licensable Activities	Days and Hours
Sale by Retail of Alcohol (off sales only)	Monday to Sunday 08:00 hrs – 22:00 hrs
Opening Hours	Monday to Sunday 07:00 hrs – 22:00 hrs

Conditions mediated with Durham Constabulary

Prevention of Crime and Disorder

- a) Initial staff training to be carried out by DPS or approved member of staff to ensure no alcohol is sold to anyone underage and refresher training to be carried out every 6 months.

- b) Training records to be kept for every member of staff and endorsed after every training session. The records will be made available to officers and responsible authorities when requested to do so.
- c) CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions.
- d) Cameras shall encompass the inside and outside of all entrances and exits to the premises and rear yards, fire exits and all areas inside the premises where the sale/supply of alcohol occurs.
- e) Equipment must be maintained in good working order, be correctly time and date stamped and kept for a period of 28 days.
- f) The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in recordable format, either disc, hard drive or memory stick to the police / local authority within an agreed timescale between officers and DPS / appointed person.
- g) The recording equipment and discs / memory sticks shall be kept in a secure environment under the control of the DPS or other responsible named individual.
- h) An operational weekly log report must be maintained and endorsed by a signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.
- i) No alcohol to be situated adjacent to the main entrance / exit of the premises to prevent snatch and grab thefts.
- j) Spirits will be shelved behind the counter / till area.

The Protection of Children from Harm

- k) A proof of age policy in place for people under 25 years of age via the Challenge 25 scheme.
- l) The only forms of identification we will accept are a passport, a photo driving licence and 'PASS' hologram I.D.
- m) A refusal register will be kept and endorsed after every sale of alcohol and entry to premise refuse, this is to include over 18's purchasing alcohol and passing it to under 18's (proxy sales).