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## **LICENSING & APPEALS SUB-COMMITTEE**

**Minutes of a Meeting held on Monday 9 November 2015 in the Committee Room, Town Hall, Matlock at 10.30pm**

### **PRESENT**

Councillor Jean Monks - In the Chair

Councillors Tom Donnelly and Steve Flitter

Eileen Tierney (Licensing Manager), Katie Hamill (Solicitor) and Simon Johnson (Democratic & Electoral Services) Christine Laver (Democratic Services Team Leader.) Annette Reading, Licensing Assistant, attended as an observer.

Richard Arnot of Wardhadaway,  
Matt Arrigoni Co-op Area Manager,  
Francesca Muscroft representing Kathleen Cook, John Cook, Roy and Jackie Jackson & Jonathan Fish, Stephen Armiger.

### **208/15 – ELECTION OF CHAIRMAN**

It was moved by Councillor Tom Donnelly, seconded by Councillor Steve Flitter and

### **RESOLVED**

(Unanimously)

That Councillor Jean Monks be elected as Chairman of the Sub-Committee

### **209/15 – LICENSING ACT 2003: APPLICATION FOR PREMISES LICENCE FOR CO-OP (FORMERLY RUTLAND ARMS, CALVER ROAD, BASLOW DE45 1RP)**

The Sub-Committee considered an application for a premises licence.

The Chairman invited the participants to introduce themselves, asked whether any party wished the Committee to consider the application in private and confirmed that the Committee was quorate.

The Licensing Officer gave an outline of the application.

Those who wished to make representations and had given notice within the required time of their intention to do so were invited to state their case. The Committee heard oral evidence against the application from Francesca Muscroft representing Kathleen Cook, John Cook, John and Jackie Jackson & Jonathan Fish. Stephen Armiger, a Baslow Resident, spoke in support of the application.

Richard Arnott, representing Wardhadaway.

The Committee had an opportunity to question all parties. All parties were invited to seek clarification of points that had not been sufficiently explained.

The Committee members confirmed that they had sufficient information to make a decision and withdrew into private session to discuss their findings.

**210/15 – DECISION**

The Sub-Committee resumed in public session.

It was moved by Councillor Steve Flitter, seconded by Councillor Tom Donnelly and

**RESOLVED**  
(Unanimously)

That, having heard from the Licensing Manager, Ms Eileen Tierney, and from Mr Arnot, for the applicant, Mr Armiger, in support of the application and Ms Muscroft, representing Mr and Mrs Jackson, Mr & Mrs Cook and Mr Fish – against the application, and having considered the written representations and documents appended to the report, the application for a premises licence for Co-op, Calver Road, Baslow be granted, subject to the District Council’s mandatory conditions, and the conditions consistent with the operating schedule, as detailed in the attached Decision Notice.

<b>PROPOSED LICENSABLE ACTIVITIES AND TIMES OF OPERATION</b>	
Sale of alcohol for consumption off the premises:	Between the hours of 7am and 11pm on any day of the week.

Full Decision Notice is attached below.

Meeting Closed 11.35pm

## LICENSING & APPEALS COMMITTEE DECISION

(Licensing Act 2003)

### Record of proceedings of Derbyshire Dales District Council's Licensing & Appeals Sub-Committee held on Monday 9 November 2015

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**Full name of Applicant:** Co-operative Food Group Ltd

**Premises Address:** Co-operative (formerly Rutland Arms, Calver Road, Baslow DE45 1RP ("the Premises"))

**Reason for attendance at the Sub Committee:** To determine an application for a Premises Licence

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#### CONSTITUTION OF COMMITTEE

Councillor Jean Monks (Chair)  
Councillor Tom Donnelly  
Councillor Steve Flitter

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#### APPLICANT'S REPRESENTATIVE

Mr Richard Arnot

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#### NAMES OF OTHERS PRESENT (WRITE "NONE" WHERE APPROPRIATE)

Katie Hamill – Solicitor  
Eileen Tierney – Licensing Manager  
Annette Reading – Licensing Assistant (as observer)  
Simon Johnson – Democratic & Electoral Services Assistant (Clerk)  
Christine Laver – Democratic Services Team Leader

#### APPLICANT'S WITNESSES

Matt Arrigonie – Co-op Area Manager

#### PEOPLE MAKING REPRESENTATIONS

##### In person

Roy and Jackie Jackson, Kathleen & John Cook and Jonathan Fish represented by Francesca Muscroft  
Stephen Armiger

##### Written representations

Mr J Fish  
Mr R Williams- Menlove  
Mrs J Pederson  
Mr R & Mrs J Jackson,  
Mr M & Mrs J Walker

Mr D Jackson  
Mr C & Mrs L Crede  
Mr J D & Mrs K Cook  
Mr S J Armiger  
Mr John Shirtcliffe  
Mr J & Mrs J Crossland (Mr Crossland's written objection was withdrawn)

## **OTHERS**

Councillor Helen Froggatt (Substitute Member in attendance)

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### **1. The meeting was conducted in public, with the agreement of all parties.**

The Subcommittee withdrew into private session to consider its decision and were advised by the Sub-Committee legal representative that only evidence that was relevant to the four licensing objectives could be taken into consideration and that it was important that any conditions attached to a licence should be to promote the licensing objectives.

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### **2. Chairpersons note of evidence (i.e. concise details of all oral and written details put before the Committee)**

The Committee considered the report of the Licensing Officer, including details of representations received.

The Committee listened carefully to the personal representations from Francesca Muscroft on behalf of Roy and Jackie Jackson, Mr & Mrs Cook and Mr Fish. Ms Muscroft outlined the residents' concerns regarding the licensing objectives. The Committee were informed that Baslow is a small rural community and that permitting the sale of alcohol for extended hours for consumption off the premises has the potential to cause crime and disorder and increased nuisance. Representations were made that the licence would be for consumption of alcohol off the premises and that no third party could help ensure responsible drinking and that there was no law enforcement within the area.

Following questions from the Committee; Ms Muscroft clarified that the village did not have any crime and disorder issues previously in respect of the former public house and that there have been no concerns with the sale of alcohol from the nearby Spar Store. The Committee noted the representations that the Spar shop had come to know their customers and offered a personal service.

The Committee heard from Mr Stephen Armiger in support of the application. Mr Armiger confirmed that he had resided in the village for 12 years and that the public house had closed due to poor trade. Mr Armiger made representations that the village had not had any issues with nuisance or disturbance in respect of other off-licences in the area. Mr Armiger stated that there were elderly residents in the village who are unlikely to drink outside of the premises and that, in his view, there are adequate controls in place to control the sale of alcohol.

The Committee noted the written representations by Mr J Fish, Mr R Williams- Menlove, Mrs J Pederson, Mr R & Mrs J Jackson, Mr M & Mrs J Walker, Mr D Jackson, Mr C & Mrs L Crede, Mr J D & Mrs K Cook, Mr S J Armiger, Mr John Shirtcliffe, Mr J & Mrs J Crossland (Mr Crossland's written objection was withdrawn) and stated that full account would be given to all representations made in writing by those who were unable to attend the hearing.

Mr Richard Arnot, applicant's representative and Matt Arrigonie Co-op Area Manager made representations to the Committee that the Co-op is the fifth largest retailer with 3000 stores and 160 years' experience. The Committee heard that the former Rutland Arms is hoped to be converted into a Co-op store by June 2016 following the grant of planning permission. Mr Arnot confirmed that the previous premises licence of the public house for the sale of alcohol was between the hours of 10 a.m. and 1 a.m. and that alcohol sales consisted of 15% of all sales in the store with 85% relating to other groceries.

Mr Arnot detailed the staff training conducted at the store which included induction training, an exam, a 'buddy system' and bi-annual refresher training relating to sales of age restricted products. The Committee were also informed of the till prompts each time a staff member logs in to remind them of their responsibilities in respect of these products. The Committee were informed that authorisation to sell these products is only given once the manager is satisfied the staff member can robustly challenge customers for proof of age. Mr Arnot confirmed that the challenge 25 scheme was introduced by the Co-op and they know what is expected of them by the licensing authority, police and residents. CCTV would also be in operation internally and externally at the premises.

The Committee heard that the Co-op intend to employ 5 personal licence holders on the premises of 20 staff and that a risk manager would be employed to monitor any issues. Mr Arnot made representations regarding the lack of crime and disorder in the area and the operation of other premises licence without concerns. Mr Arnot clarified that the planning regime considered the highway issues in which access and traffic management surveys were dealt with.

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### **3. Findings of the Sub-Committee on questions of fact material to the decision (i.e. the relevant facts accepted from the evidence available)**

The Sub-Committee found that:

- Co-op has a robust in house staff training programme that covers the sale of alcohol and is refreshed frequently.
- The store would be covered by internal and external CCTV to prevent nuisance and crime & disorder
- Co-op ensures all staff follow the 'Challenge 25' rule to produce proof of age for the sale of alcohol.
- the store would have five Personal Licence holders employed at the premises out of approximately 20 staff members

- Nationally 15% of sales at Co-op stores can be attributed to the sale of alcohol.
- There is a regional Risk Manager who monitors the operation of each store and to identify any problems that arise, including those related to the sale of alcohol
- Co-op has an official complaints procedure in place to deal with any complaints from the public that cannot be resolved locally.
- There was no evidence of crime and disorder in respect of the operation of premises licences in the area and there was no evidence submitted that the granting of this premises licence would cause an increase in crime and disorder in the area or cause drink driving.

#### 4. Full text of unanimous decision

That, having heard from the Licensing Manager, Ms Eileen Tierney, and from Mr Arnot, for the applicant, Mr Armiger, in support of the application and Ms Muscroft, representing Mr and Mrs Jackson and Mr Fish – against the application, and having considered the written representations and documents appended to the report, the application for a premises licence for Co-op, Calver Road, Baslow be granted, subject to the District Council's mandatory conditions, and the conditions consistent with the operating schedule, as detailed below.

<b>PROPOSED LICENSABLE ACTIVITIES AND TIMES OF OPERATION</b>	
Sale of alcohol for consumption off the premises:	Between the hours of 7am and 11pm on any day of the week.

#### Conditions to be attached to the licence

##### Schedule of Licence Conditions

###### MANDATORY CONDITION: SUPPLY OF ALCOHOL

- (1) No supply of alcohol may be made under the premises licence:
  - a. at a time when there is no designated premises supervisor in respect of the premises licence, or
  - b. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

## MANDATORY CONDITION: PROOF OF AGE SCHEME

- 1(a)** The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- 1(b)** The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

## MANDATORY CONDITION: SALE OF ALCOHOL - DUTY + VAT

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a);

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(a).

## CONDITIONS CONSISTENT WITH OPERATING SCHEDULE:

These are the steps that the applicant intends to take to promote the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).

**a) General**

The applicant has given thought to the potential impact of the grant of this application on the four licensing objectives and, having regard to the locality, considers that the following conditions are appropriate.

**b) The prevention of crime and disorder**

1. The premises shall maintain a CCTV system which gives coverage of all entry and exit points. The system shall continually record whilst the premises are open and conducting licensable activities. All recordings shall be stored for minimum period of 28 days and shall be capable of being easily downloaded. Recordings shall be made available upon the receipt of a request by an authorised Officer of the Police or the Local Authority.
2. There shall be "CCTV in Operation" signs prominently displayed at the premises.
3. An incident log (whether kept in a written or electronic form) shall be retained at the premises and made available to an authorised Officer of the Police or the Local Authority.
4. The premises shall operate a proof of age scheme, such as Challenge 25, whereby the only forms of acceptable identification shall be either a photographic driving licence, a valid passport, military identification or any other recognised form of photographic identification incorporating the PASS logo, or any other form of identification from time to time approved by the secretary of the state.
5. The premises will be fitted with a burglar alarm system.
6. The premises will be fitted with a panic button system for staff to utilise in case of an emergency.

**c) Public safety**

The premises licence holder shall ensure that the appropriate fire safety and health and safety regulations are applied at the premises.

**d) Prevention of public nuisance**

A complaints procedure will be maintained, details of which will be made available in store and upon request.

**e) The protection of children from harm (proposed in agreement with Trading Standards)**

1. All relevant staff will receive training on their responsibilities under the Licensing Act 2003 at the commencement of their employment. No relevant member of staff will be permitted to sell alcohol until such time as they have successfully completed the aforementioned training. Refresher training should be provided at regular intervals.

2. Training records shall be kept for a minimum of 12 months and made available for inspection, upon request, to an authorised officer of the Local Authority or the Police.
3. An age verification policy, such as Challenge 25, shall be operated at the premises. Acceptable forms of identification will be pass accredited proof of age card, military ID, a photo driving licence or passport. In addition any other form of identification from time to time approved by the Secretary of State shall also be acceptable.
4. An age prompt till system will be utilised at the premises.
5. Clear, prominent and unobstructed signage informing customers of the age verification policy in operation at the premises will be on display.
6. A system of recording refusals of sale pursuant to the age verification policy, whether kept in written or electronic form, will be operated at the premises.
7. A member of management at the premises will, at least weekly, review the sales refusal record and take any appropriate action.
8. The refusal sale record shall be available for inspection, on request, to an authorised officer of the Local Authority or the Police. Such records shall be kept for a minimum of 2 years.
9. A refusals register (whether kept and written or electronic form) will be maintained at the premises and will be made available for inspection upon request by an authorised Officer of the Police or the Local Authority.

**Reasons for the decision:**

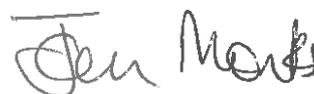
The Sub-Committee did not consider that the application was detrimental to the licensing objectives.



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Date 9/11/15

Members signature:



## **APPEALS TO THE MAGISTRATES' COURTS**

Many of the enforcement actions and decisions made by Derbyshire Dales District Council carry the right of appeal to the Magistrates' Court. This means that if you do not agree with the decision that the District Council has made you may contact the Magistrates' Court and ask them to formally review it. For example, anyone served with a formal enforcement notice has the right to appeal against that notice within 21 days of its service.

### **How do I make an appeal?**

The right to appeal is normally set out on the reverse of the notice or in a letter that accompanies it.

The Derbyshire Dales District Council area is served by two Magistrates' Courts:

- North East Derbyshire and Dales Magistrates' Court, Tapton Lane, Chesterfield  
S41 7TW, Tel: 01246 224040, and
- Southern Derbyshire Magistrates' Court, St Mary's Gate, Derby DE1 3JR, Tel: 01332 362000

### **Which Court should I contact?**

Generally speaking the North East Derbyshire and Dales Magistrates' Court serves the northern part of the District and Southern Derbyshire Magistrates' Court serves the southern part of the District.

The Court that you would need to contact to make an appeal will depend on the address to which the notice or other enforcement decision relates. If you are unsure which Court would deal with your appeal, we recommend that you contact one of them to check.

### **Where can I get help?**

If you think you need help we would recommend that you speak to a solicitor who would be able to assist you with the Court processes.

The District Council is not able to recommend any particular firm of solicitors but would suggest you check in Yellow Pages or a local services directory.

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