

Licensing Panel (Licensing Act 2003 Functions)

Agenda Item 149
Brighton & Hove City Council

Subject:	Application for a Variation of a Premises Licence under the Licensing Act 2003		
Premises:	Co-operative, Whitehawk Road, Brighton, BN2 5NS		
Applicant:	Co-operative Group Food Ltd		
Date of Meeting:	24 April 2012		
Report of:	Head of Regulatory Services		
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Wards Affected:	East Brighton		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Co-operative.

2. RECOMMENDATIONS:

2.1 To determine an application for a Variation of a Premises Licence under the Licensing Act 2003 for Co-operative.

2.2.1 The application is for:

A Variation of a Premises Licence under the Licensing Act 2003.

The application proposes:

To change the licensed hours and opening hours of the store to 6am - 11pm
Monday – Sunday

2.2.2 Part P of the application is detailed at Appendix A

2.3 Summary table of existing and proposed activities

	Existing	Proposed
M Supply of Alcohol	Off the Premises Monday - Saturday 08.00 – 23.00 Sunday 10:00 - 22:30 Christmas Day 12:00 - 15:00 19:00 - 22:30 Good Friday 08:00 - 22:30	Off the Premises Every Day 06.00 – 23.00
O Hours premises are open to public	None	Every Day 06.00 – 23.00

2.4 Existing licence attached at Appendix B

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 The premises does not fall in the Cumulative Impact Area or the Special Stress Areas.

3.2.1 Representations received

Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:

3.2.2 One representation was received. It was received from a local resident.

3.2.3 Representations received had concerns relating to Prevention of Crime and Disorder and the Protection of Children from Harm.

3.2.4 A representation was received from Sussex Police which included conditions relating to Prevention of Crime and Disorder and the Protection

of Children from Harm. The representation was withdrawn as the applicant agreed to the conditions and amended the operating schedule accordingly.

3.2.5 Full details of the representation and agreement is attached at Appendix C. A map detailing the address of the person who has submitted the representation and their location in relation to the premises is attached at Appendix D.

4. CONSULTATION

Commentary on licensing policy

4.1 The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and numbered as they appear in the policy:

General

1.2 The licensing objectives are:-

- (a) Prevention of crime and disorder;
- (b) Public safety;
- (c) Prevention of public nuisance;
- (d) Protection of children from harm.

1.3 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.

1.5 Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

1.10.4 The licensing authority's preferred position is to ensure planning permission is in place before an application for a licence is made.

In respect of the prevention of crime and disorder

- 2.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.
- 2.2 It is expected that the DPS will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 2.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.

2.7 The Licensing Authority will support:

- 2.7.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports: mixed use venues encouraging a wider age balance. A "matrix" approach to licensing decisions has been adopted and is set out below.

Matrix approach for licensing decisions in a Statement of Licensing Policy

	Cumulative Impact Area	Special Stress Area and London Road	Mixed Commercial and Residential Areas (streets containing shopping parades)	Residential Area (mainly residences in street)	Marina
Restaurant	Yes (midnight)	Yes (2am)	Yes	Yes (11.30pm)	Yes
Late Night Takeaways	No	Yes (midnight)	Yes (midnight)	Yes (midnight)	Yes
Night Club	No	No	Yes (3am)	No	Yes
Pub	Yes (11pm)	Yes (11pm)	Yes (3am)	Yes (11pm, midnight Friday and Saturday)	Yes
HVVD (Super pub)	No	No	No	No	Yes
Non-alcohol lead (e.g. Theatre)	Yes (favourable)	Yes (favourable)	Yes (favourable)	Yes	Yes
Off-licence	No	No	No	Yes (8pm)	Local shops only
Members Club	Yes (<100)	Yes (<100)	Yes	Yes (11pm and midnight Friday and Saturday)	Yes

Notes on matrix

Subject to the following, the policy, as represented in the matrix, would be strictly adhered to

- 1) Each application would be considered on individual merit
- 2) Departure from policy is expected only in exceptional circumstances
- 3) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix

- 4) Exceptional circumstances may include: close consultation with Sussex Police and the Licensing Authority, meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to off set impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts), BCRP membership
- 5) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre
- 6) Shatterproof drinking receptacles will normally be required by licence condition in alcohol led establishments in the city centre
- 7) Outdoor events will be supported where arranged through the council's event planning process
- 8) Favourable consideration will be given to residential need
- 9) Favourable consideration will be given to local businesses properly engaged with the local licensing authority and responsible authorities

2.7.6 Care, control and supervision of premises:

The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.

- 2.7.7 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, e.g. type of licence, capacity, operating hours restrictions.

- 2.7.12 Enforcement will be achieved by the enforcement policy.

In respect of the protection of children from harm

The following details and measures are intended to address the need for the protection of children from harm; this includes moral, psychological

and physical harm which may be associated with licensed premises and certificated club premises (for example the exposure too early to strong language and sexual expletives, e.g. in the context of film exhibitions or where adult entertainment is provided). It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions (unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely).

- 5.1 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, the committee recommend that all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the Licensing Strategy Group (e.g. passport, photo driving licence or pass card).
- 5.2 It is the licensing authority's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.
- 5.4 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:-
- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
 - with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises;
 - where entertainment of an adult or sexual nature is commonly provided.
 - where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons

Options may include:-

- limitations on the hours when children may be present;
- age limitations (below 18);
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

5.7 Children and Young Persons Overview and Scrutiny Council reported on Reducing Alcohol Related Harm to Children and Young People to Licensing Committee who agreed:

5.7.3 In determining applications and reviews, applications can only be dealt with on their individual merit. Use of schemes like Think 21 and Challenge 25 are appropriate on a case by case basis. Normally a Challenge 25 condition will be appropriate.

5.7.4 A clear causal link between price discounting and disorder will normally lead to the imposition of conditions prohibiting irresponsible promotions. This is now reflected in the new mandatory conditions which can be found on the licensing pages of the council's website.

5.8 Best Practice to protect children from harm

The Council passed a Notice of Motion that licensing committee recommend best practice for both on and off premises to take on board on a voluntary basis, in order to promote responsible licensing.

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

The council will support accreditation schemes, such as Best Bar None and Purple Flag, where appropriate and subject to resources.

Strategic Integration

- 6.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening.
- 6.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.
- 6.8 Other regulatory regimes
- This policy avoids duplication with other regulatory regimes wherever possible.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

The licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted: Karen Brookshaw Date: 03.04.2012

5.2 Legal Implications:

The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

Lawyer Consulted: Rebecca Sidell Date: 03.04.2012

5.3 Equalities Implications:

Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

5.4 Sustainability Implications:

Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

5.5 Crime & Disorder Implications:

Licensing policy aims to prevent crime and disorder and protect public safety.

5.6 Risk and Opportunity Management Implications:

Licensing is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

5.7 Corporate / Citywide Implications:

The success of the city's tourism strategy requires a safe, attractive city centre to improve competitiveness. The Act may significantly change night time economy

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Part P of the Application
2. Appendix B – Part A of Premises Licence
3. Appendix C – Representation and Agreement
4. Appendix D – Map of area

Documents in Members' Rooms

1. Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.

Background Documents

1. Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.

