

# Licensing Panel (Licensing Act 2003 Functions)

## Agenda Item

Brighton & Hove City Council

<b>Subject:</b>	<b>Application for a Variation of a Premises Licence under the Licensing Act 2003</b>		
<b>Premises:</b>	<b>Co-Op 67 - 71 Portland Road Hove BN3 5DQ</b>		
<b>Applicant:</b>	<b>Co-Operative Group Food Ltd</b>		
<b>Date of Meeting:</b>	<b>7 May 2013</b>		
<b>Report of:</b>	<b>Head of Regulatory Services</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Sarah-Jane McNaught</b>	<b>Tel: (01273) 294431</b>
	<b>E-mail:</b>	<b>Sarah.mcnaught@brighton-hove.gov.uk</b>	
<b>Wards Affected:</b>	<b>Westbourne</b>		

### 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-Op

#### 2. RECOMMENDATIONS:

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

2.2.1 The application is for:

A Variation of a Premises Licence under the Licensing Act 2003

The application proposes:

To vary the hours when licensable activities may take place Monday-Saturday from 08.00-23.00 to 06.00-23.00 and on a Sunday from 10.00-22.30 to 06.00-23.00

2.2.2 Part M of the application is detailed at Appendix A

## 2.3 Summary table of existing and proposed activities

	<b>Existing</b>	<b>Proposed</b>
<b>M Supply of Alcohol</b>	Monday to Saturday 08:00 – 23:00  Sunday 10:00 – 22:30  Christmas Day 12:00 – 15:00  Christmas Day 19:00 – 22:30  Good Friday 08:00 – 22:30	Every Day 06:00 – 23:00

2.4 The existing Premises Licence is 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 Councillor.

3.2.3 Representation received had concerns relating to Prevention of Public Nuisance

3.2.5 Full details of the representation is attached at Appendix C.

A map detailing the location of 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 area.

- 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.

### **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

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

2.7.2 Favourable consideration will be given to promoting the city's cultural quarter, live entertainment in pubs, food led operations, developing LGBT and other communities of interest venues, particularly around St James's Street, promoting a family leisure area on the sea front with a more adult leisure centre at night.

#### 2.7.5 Geographical spread

Spreading the siting of large venues (those with a capacity in excess of 250 people) across the city reduces the problems of dispersing large numbers of people leaving premises in close proximity at the same time. Taxi and bus queues can be flash points for public disorder and violence. A good geographical spread coupled with increased taxi ranks and bus stops near venues reduces waiting time and the potential for crime and disorder. Food led operations are promoted.

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.

2.7.13 Any enforcement checks will include outside drinking areas, looking particularly at noise, and customer smoking areas.

## 2.9 Street drinking

The area around the Level is considered high risk for street drinkers and the Licensing Authority will have regard to prevention of crime and disorder by virtue of street drinking and antisocial behaviour when considering applications in this area.

### **In respect of the prevention of public nuisance**

4.1 Planning, building control and licensing will be properly separated to avoid duplication and inefficiency. Granting of licences will not relieve applicants of the need to apply for planning permission or building control consent and there is an expectation that these issues will have been explored before licensing applications are submitted. Applicants are recommended to obtain correct planning consents prior to applying for a licence to avoid potentially inoperative licences.

4.2 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke)

4.6 In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

4.7 Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours on busy main roads and in the central leisure area. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood. Licensed premises in residential neighbourhoods will normally have a terminal hour no later than 2330. In mixed neighbourhoods they will normally have a terminal hour of no later than 0200 hours to counter noise disturbance to residents as informed by the health impact assessment and requested by Licensing Strategy Group. The Licensing Authority has adopted a matrix approach to licensing decisions (see 2.7.1)

- 4.8 While each application will always be considered on its merits, as an indication the St James's Street area and the North Laines/area will be considered residential neighbourhoods, and East Street a mixed neighbourhood.
- 4.9 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 4.10 below).
- 4.11 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

### **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: Jeff Coates

Date: 18.04.2013

### **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: 18.04.2013

### **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 M of the Application
2. Appendix B – Part A of Premises Licence
3. Appendix C – Representation
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.

