

Agenda Item No: 1 - Summary of Report

Licence Reference 18/00189/LAPRE

Report To: LICENSING SUB – COMMITTEE
(UNDER THE LICENSING ACT 2003)

Date: 19 FEBRUARY 2018

Report Title: CO-OPERATIVE, 1 BUCKINGHAM DRIVE, HARRIETSHAM, KENT, ME17 1GF

Application for: A premises licence under the Licensing Act 2003

Report Author: Lorraine Neale

- Summary:**
1. The Applicant – Co-operative Group Food Limited
 2. Type of authorisation applied for: A premises licence under the Licensing Act 2003.
 3. Proposed Licensable Activities and hours:

			Main Event
M	Supply of Alcohol	Mon - Sun	06:00 – 23:00

Affected Wards: HARRIETSHAM & LENHAM

Recommendations: The Committee is asked to determine the application and decide whether to grant the premises licence.

Policy Overview: The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and that such departure be supported by proper reasons.

Financial Implications: Costs associated with processing the application are taken from licensing fee income.

Other Material Implications: **HUMAN RIGHTS:** In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as “**responsible authorities**” and/or “**other persons**” (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

LEGAL: Under the Licensing Act 2003 the **Licensing Authority** has a duty to exercise licensing control of relevant premises.

Background Papers: Licensing Act 2003
DCMS Guidance Documents issued under section 182 of the Licensing Act 2003 as amended
Maidstone Borough Council Statement of Licensing Policy

Contacts: Mrs Lorraine Neale at: lorraineneale@maidstone.gov.uk – tel: 01622 602028

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Application: For a premises licence under the Licensing Act 2003. (Appendix A).

Purpose of the Report

The report advises Members of an application for a Premises Licence to be granted under the Licensing Act 2003, made by Co-operative Group Food Limited, in respect of the premises Co-Operative, 1 Buckingham Drive, Harrietsham, Kent, ME17 1GF (Appendix B) in respect of which 1 objection has been received from other parties (Appendix C).

Issue to be Decided

Members are asked to determine whether to :

1. grant as applied for
2. grant with conditions
3. exclude any licensable activity
4. reject the DPS

5. or reject the application.

2 The relevant sections are Part 3 S16 -24 of The Licensing Act 2003 and section 4 of The Licensing Act 2003 in particular the Licensing Objectives:

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

3. The application has been correctly advertised in the local press and notices displayed at the premises for the required period.

4. There are no representations received from responsible authorities.

5. There is 1 representation from other parties.

6. The table below illustrates the relevant representations which have been received

There appears to be concerns that the requested hours will potentially contribute to noise nuisance and parking problems at unsociable hours in a residential area.

The applicant's solicitors have responded to explain that the "allocated parking" that Mr Cooper has mentioned in his objection is actually public car parking and not provided by the Co-Operative for its customers, a plan has also been provided (Appendix 5)

7. Members are advised that applications cannot be refused in whole or in part, or conditions attached to the licence unless it is appropriate to do so to promote the licensing objectives.

8. The Operating Schedule submitted by the Applicant has addressed the licensing objectives in the following manner:

a) General – all four licensing objectives:

Convenience store selling groceries, sundry items and alcohol for consumption off the premises only.

b) The prevention of crime and disorder:

The premises shall maintain a CCTV system which gives coverage of all entry and exit points.

Responsible Authority /Interested Party	Licensing Objective	Associated Documents	Appendix
Mr M Cooper	Public Nuisance	Letter	C

The system shall continually record whilst the premises are open and conducting licensable activities.

All recordings shall be stored for a 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.

There shall be "CCTV in Operation" signs prominently displayed at the premises.

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.

The premises shall operate a proof of age scheme, such as a 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.

The premises will be fitted with a burglar alarm system.

The premises will be fitted with a panic button system for staff to utilise in the 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) The 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:

All staff will receive comprehensive training in relation to age restricted products and in particular the sale of alcohol.

No member of staff will be permitted to sell age restricted products until such time as they have successfully completed the aforementioned training.

An age till prompt system will be utilised at the premises in respect of age restricted products.

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.

9. Relevant sections of **The Guidance issued under section 182 of The Licensing Act 2003;**

Chapters 8 & 9 Premises Licences & Determining Applications

Chapter 10 Conditions NB: There is Home Office Supporting Guidance on Pools of Conditions but this is not statutory guidance.

Relevant policy statements contained in the Licensing Authority's Statement of Licensing Policy:

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17.19 – 17.22 Prevention of Public Nuisance

Prevention of Public Nuisance

The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

10. Options

Legal options open to members -

1. Grant the licence subject to conditions as are consistent with the operating schedule accompanying the application.
2. Grant the licence with modified conditions
3. Exclude a licensable activity

4. Refuse to specify the DPS

5. REJECT the whole or part of the application

Members of the Licensing Act 2003 – Licensing Sub – Committee are reminded of their duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co – operate in the reduction of crime and disorder in the Borough

Section 17 of the Crime and Disorder Act 1988 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can prevent, crime and disorder in its area".

11. **Implications Assessment**

The decision should be made with regard to the Secretary of State's Guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Where the decision departs from either the Guidance or the policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal/challenge is increased.

12. **Human Rights**

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to Fair Hearing
- Article 10 – Freedom of Expression

The full text of each Article is given in the attached Appendices

13. **Conclusion**

Members must ensure that the application is considered on its merits, as well as against the relevant guidance, policy and statutory framework.

14. **List of Appendices**

- Appendix 1 Application Form
- Appendix 2 Plan of Premises
- Appendix 3 Other parties representation
- Appendix 4 Plan of area
- Appendix 5 E-mail and plan from Applicants solicitor
- Appendix 6 Human Rights Articles
- Appendix 7 Order of Proceedings

15. **Appeals**

The applicant or any other person(objector) may appeal the Licensing Act 2003 Sub Committee's decision within 21 days beginning with the day on which the Appellant is notified. All/any appeals must be lodged with the Magistrates' Court. Parties should be aware that they MAY incur an Adverse Costs Order should they bring an appeal.

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