

Agenda Item No: 4 **Report No:** 120/14
Report Title: Application for a Premises Licence. Co-op, formerly Harbourside Inn, Fort Road, Newhaven BN9 9EL
Report To: Licensing Sub-Committee **Date:** 27 August 2014
Report By: Director of Service Delivery

Contact Officer(s)-

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Purpose of Report:

To consider representations made against the Premises Licence application submitted under the Licensing Act 2003

1. The Application:

Applicant: Co-operative Group Food Ltd

1.2 Premises: Co-operative Food (former Harbourside Inn), Fort Road, Newhaven, East Sussex BN9 9EL

1.3 Type of application: Application for a Premises Licence to be granted under the Licensing Act 2003.

1.4 Licensable activities:

1.4.1 Sale of alcohol for consumption off the premises from 7am to 11pm Monday to Sunday.

1.5 Steps to promote the Licensing Objectives:

1.5.1 The applicant has offered the following to promote the four licensing objectives.

1.5.2 The prevention of crime and disorder

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 a minimum period of 21 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 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.

1.5.3 Public safety

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

1.5.4 The prevention of public nuisance

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

1.5.5 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.

1.5.6 The applicant has also provided their Citrus training document and a copy of QC opinion on deliveries and the Licensing Act 2003 – appendices 6 & 7 to this report.

2. Background Information:

2.1 The premises was previously a large public house with bed and breakfast / Hotel facilities available, operating up to 12.30am weekdays and 1.30am weekends. The public house closed and the Premises Licence surrendered in August 2013. It has remained closed and unoccupied since.

The premises was purchased by The Co-Operative Group on 5th November 2013 and a Planning application was submitted to Lewes District Council on 27th November 2013 for the demolition of existing ancillary buildings,

expansion of the car park and conversion of the upper floors to form 6 flats, with alterations to facilitate a class A1 retail convenience store on the ground floor, and the erection of 5 x two bedroom dwellings to the rear of the site.

This application went to the Planning Applications Committee on 4th June 2014 and it was resolved to grant planning permission subject to completion of a Section 106 agreement to secure provision of financial contributions towards recreation space and recycling costs. No decision has been issued at the moment pending completion of the legal agreement..

Conditions were attached to the Permission granted, one of which is that deliveries to or from the retail premises shall be restricted to 8am to 5pm Monday to Friday, 9am to 4pm Saturdays and at no time on Sundays or Bank Holidays

- 2.2** The premises is situated in an area of mixed residential properties, harbour basin, and some business premises to the south of the town centre. Directly in front of the premises in Fort Road are the Villandry Flats accommodating 14 residential units. The Ground floor area of the Villandry Flats in West Quay accommodates various retail units comprising of an Italian restaurant (licensed for on sales from 7am to 11pm), an angling shop, a convenience store (licensed for off sales from 8am to 10.30pm Monday to Sunday), a cafe, and a tattooist. Opposite, to the south of the premises, in Gibbon Road is Marine Court accommodating 10 residential units and to the north of the premises in Fort Road separated by vehicle access roads and parking is the HM Coastguard Office adjoined to further residential properties. Gibbon Newmarket, just over half a mile away at the top end of Gibbon Road, is licensed for off sales from 8am to 11pm Monday to Saturday and 10am to 10.30pm Sundays.

3. Representation received from Responsible Authorities:

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| 3.1.1 <u>Police:</u> | No comment |
| 3.1.2 <u>Environmental Health:</u> | No comment. |
| 3.1.3 <u>Fire Officer:</u> | No comment. |
| 3.1.4 <u>ESCC – Child Protection:</u> | No comment. |
| 3.1.5 <u>Trading Standards:</u> | No comment. |
| 3.1.6 <u>Health & Safety:</u> | No comment. |
| 3.1.7 <u>Planning:</u> | No comment. |
| 3.1.8 <u>Public Health.</u> | No comment. |

4. Representation received from Interested parties:

- 4.1** There has been 1 letter and 3 e-mails of objection received making representation regarding this application from members of the public. The objections are on the grounds of public nuisance, the prevention of crime and disorder, public safety and the protection of children from harm.

5. Licensing Policy Considerations:

- 5.1** Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. It covers the licensable activity for the retail sale of alcohol which is subject to this licence application.
- 5.2** The aims of the Policy are to secure the safety and amenity of residential communities, help to ensure a sustainable environment, and to provide regulation of the cultural/entertainment industry and to promote the four Licensing Objectives of the Act.
- Prevention of crime and disorder
 - Public Safety
 - Prevention of public nuisance
 - Protection of children from harm
- 5.3** The following will be taken into account when licensing decisions are being made. The Council as Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives. Each licensing application will be given individual consideration on its merits.
- 5.4** The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.
- 5.5** Any person has a right to make representations concerning applications for premises licences and hours of the licensable activity and to have those representations given equal weight regardless of where they live.
- 5.6** In each case that arises following representations the Policy states the Council will:
- a) Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities involved and the rights of local residents to peace and quiet.
 - b) Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
 - c) Consider restricting the hours only in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.
- 5.7** The Council will only attach licence conditions that are reasonable, proportionate and appropriate for the promotion of the licensing objectives.
- 5.8** If a responsible authority and/or any other person do not raise any representations about a licensing application made to the Council, it is the duty of the Council to grant the Licence subject only to the conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the 2003 Act itself.

5.9 The Council may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representation and it has been satisfied at a hearing that it is appropriate to impose conditions due to the representations raised. It may then only impose such conditions that are appropriate to promote the Licensing Objectives arising out of consideration of the representations.

5.10 Particular attention should be made to section 6.2 of the Lewes District Licensing Policy which deals with the determination of applications for Shops, Stores and Supermarkets

6. National Guidance:

6.1 The Council may attach conditions to the licence in consideration of the application and Section 10 of the National Guidance provides advice and recommendations concerning best practice in relation to conditions attached to premises licences.

7 Financial Appraisal

There are no financial implications to this report

8 Legal Implications

8.1 Case law has confirmed that applications should be only be refused, or restrictions imposed, if there is evidence that it is necessary to prevent crime and disorder, a public nuisance or to ensure public safety and protection of children.

8.2 In the event, either, the Applicant or a person who has made a relevant representation desires to contend the Committee's decision they will have the opportunity to appeal the decision to the Magistrates Court.

9 Sustainability Implications

I have completed the Sustainability Implications Questionnaire and there are no significant effects as a result of these recommendations

10 Equality Screening

I have completed the Equalities Implications questionnaire and there are no significant effects as a result of these recommendations.

11 Background Papers

Application for the grant of a premises licence for Co-Op, former Harbourside Inn, Fort Road, Newhaven from Co-operative Group Food Ltd.

12 Appendices:

1. Floor Plans of premises (page 26)
2. Location Plan of the site and immediate surrounding area (page 27)
3. Photographs of existing external facade (page 28)
4. 1 letter of objection from local residents and business (page 30)
5. 3 e-mails of objection from local residents (page 32)
6. Citrus Training Document (page 38)
7. QC opinion (page 96)