

## Licensing Committee

**Minutes** of a meeting of the **Licensing Sub-Committee** held in the **Ditchling and Telscombe Rooms, Southover House, Southover Road, Lewes** on **Wednesday, 27 August 2014** at 10.10am

**Present:**

Councillor S J Gauntlett (Chair on election)  
Councillors P Gander and J M Harrison-Hicks

**Officers Present:**

Ms Z Downton, Committee Officer  
Ms J Fletcher, Solicitor  
Ms S Lindsey, Licensing Officer

**Applicant's Representatives Attending:**

Mr R Arnot, Solicitor, Ward Hadaway Law Firm  
Mr S Griffiths, Operations Manager, The Cooperative Group Food Ltd

**Representor attending the meeting and who spoke against the Application:**

Mr B Boddy

**Also Present:**

Ms J Adams, Environmental Health Officer  
Ms V Holland, Assistant Licensing Officer  
Mr J McHugh, Assistant Licensing Officer  
Mr M Moss, Licensing Officer

| Minutes  | Action |
|--|--------|
| <p><b>1 Election of Chair of the Committee</b></p> <p><u>Resolved:</u></p> <p><b>1.1</b> That Councillor Gauntlett be elected Chair of the Sub-Committee for this meeting.</p>   |        |
| <p><b>2 Application for a Premises Licence for Cooperative Food (formerly Harbourside Inn), Fort Road, Newhaven, East Sussex, BN9 9EL</b></p> <p>The Chair of the Sub-Committee welcomed all parties to the hearing. Those attending introduced themselves and the procedure under the Licensing Act 2003 was read out to all parties present.</p> <p>The Sub-Committee considered Report No 120/14 to determine the Application for a Premises Licence for Cooperative Food (formerly</p> |        |

Harbourside Inn), Fort Road, Newhaven, East Sussex.

The Licensing Officer presented the Report to the Sub-Committee.

The Application related specifically to the sale of alcohol for consumption off the premises from 7.00am until 11.00pm on Monday to Sunday.

The premises had previously been a large public house with bed and breakfast and hotel facilities, operating up until 12.30am on weekdays and until 1.30am on weekends. The public house closed and the Premises Licence was surrendered in August 2013. The premises had remained closed and unoccupied since that time.

The premises had been purchased by The Cooperative Group Food Ltd on 5 November 2013 and a planning application was submitted to the Council on 27 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 two-bedroomed dwellings to the rear of the site.

The premises was situated in an area of mixed residential properties, the harbour basin and some business premises to the south of Newhaven town centre. Directly in front of the premises in Fort Road, Newhaven, were the Villandry Flats which comprised 14 residential units. The ground floor area of the Villandry Flats in West Quay accommodated various retail units which comprised an Italian restaurant, which was licensed for on sales of alcohol from 7.00am until 11.00pm, an angling shop, a convenience store which was licensed for off sales of alcohol from 8.00am until 10.30pm from Monday to Sunday, a café and a tattooist. Opposite, to the south of the premises, in Gibbon Road was Marine Court which accommodated 10 residential units and, to the north of the premises in Fort Road separated by vehicle access roads and parking, was the HM Coastguard Office which adjoined to further residential properties. Gibbon Newmarket, just over half a mile from the premises at the top end of Gibbon Road, was licensed for off sales of alcohol from 8.00am until 11.00pm from Monday to Saturday and from 10.00am until 10.30pm on Sundays.

The Licensing Officer explained that she had received one letter and three emails making representations regarding the Application from members of the public. The objections were made on the grounds of public nuisance, the prevention of crime and disorder, public safety and the protection of children from harm. Copies of the representations were set out in Appendices 4 and 5 of the Report. It was noted that no representations had been received from the responsible authorities.

A revised floor plan of the premises, location plan of the site and immediate surrounding areas and photographs of the existing external façade of the premises were set out under Appendices 1, 2 and 3 respectively of the Report.

The Applicant had also provided their Citrus Welcome and Training Document for staff new starters and a copy of Susanna FitzGerald QC's opinion on deliveries and the Licensing Act 2003, as set out in Appendices 6 and 7 of the Report.

The Licensing Officer highlighted that the hearing was in relation to representations made in respect of the licensing objectives regarding the sale of alcohol on the premises, and not other matters such as planning.

The Sub-Committee thanked the Licensing Officer for her comprehensive Report. The members of the Sub-Committee, the Applicant and the Representor present confirmed that they had no questions to ask the Licensing Officer regarding the Report.

The Sub-Committee invited Mr Arnot, Solicitor, to present the case on behalf of the Applicant. Mr Arnot explained that The Cooperative Group Food Ltd was the fifth largest retailer in the UK and had around 3,000 stores nationwide. The premises for which the licence had been applied for was intended to open in January 2015. Part of the convenience of the store was that it would allow customers to purchase alcohol, along with the usual goods and products that such a store would sell. He stated that in terms of a typical store turnover, 15% could be attributed to the sale of alcohol, therefore the majority of sales were not alcohol products. He emphasised that the store was not planned to be a dedicated off-licence, but a convenience store. Mr Arnot added that The Cooperative Group Food Ltd understood its retail responsibilities and what was expected of the company from the statutory authorities.

Mr Arnot outlined the policies and procedures which The Cooperative Group Food Ltd had in place and carried out at each store to promote the licensing objectives. Those practices included appointment of a Risk Manager at every store to ensure policies were carried out by staff, a training programme for new staff including a buddy scheme, refresher training, CCTV and a proof of age scheme such as Challenge 25. Mr Arnot explained that the layout of the premises would ensure that the beers, wines and spirits section would be located furthest away from the sole entrance/exit point of the store.

Mr Arnot explained that the organisation aspired to have 4 to 5 personal licence holders out of 20 employees at the store. That would ensure that a licence holder would always be present during operational hours. He continued to explain that The Cooperative Group Food Ltd aimed to be a good national operator and it had every imperative to operate its stores correctly. He stated that the operational hours applied for, being daily from 7am until 11pm, would be very convenient for busy people. He also referred to the Council's Statement of Licensing Policy (specifically 6.2.1 of the Policy) which stated that 'Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open'.

Mr Arnot responded to the representations which had been made against the Application. He brought to the Sub-Committees' attention that the concerns which had been raised regarding planning, parking or delivery matters were not relevant to the licensing hearing proceedings. In respect of Mrs Stanley's representation, on pages 30 – 31 of the Agenda papers, Mr Arnot explained that the premises would be well lit and there would be CCTV to prevent anti-social behaviour. In response to Karen Joyce's representation, on pages 34 – 35 of the Agenda papers, Mr Arnot did not feel the opening of the store would lead to instances of vandalism and criminal damage. In terms of the parking concerns raised, Mr Arnot explained that there would be 10 allocated customer parking spaces, however, from experience, most customers walked to their local convenience store. In respect of Mr Boddy's representation, on pages 36 and 37 of the Agenda papers, Mr Arnot clarified that the planned store was not a large premises and The Cooperative Group Food Ltd did not sell discounted alcohol or other products, but offered good value. He did not concur with Mr Boddy's concern that the proposed opening hours until 11pm '...would encourage a certain element to take advantage and create possible mayhem'. Mr Arnot concluded that The Cooperative Group Food Ltd was proud of the way it ran its stores responsibly.

The Sub-Committee, Representer and Licensing Officer confirmed they had no questions to ask Mr Arnot, the Applicant's Representative, in respect of the Application.

The Sub-Committee invited Mr Boddy, who had made a representation against the Application, to present his case. Mr Boddy expressed concern that the local area was already suffering from a spate of metro-style convenience stores. He explained that there was a rumour in the neighbourhood that the Coop was going to close its town centre store as it was opening a new one. He questioned why there was no mention on the Application of CCTV surveillance of the rear car park on the premises. He also found the daily operating hours from 7am until 11pm puzzling as he felt that most citizens who were at home would not be in need of using a convenience store that late in the evening. Mr Boddy felt that The Cooperative Group Food Ltd should have shown more respect to the neighbourhood and in his opinion had not made a welcoming start to the area. He also raised concern that motorists would inherently abuse the double yellow lines outside of the premises when visiting the store, therefore causing disruption to road users and pedestrians. He concluded by stating that there had been no mention of the petition that many residents in the locality had signed objecting to the opening of the store. He thanked the Sub-Committee for the opportunity to address his concerns directly to them.

The Sub-Committee confirmed it had no questions to ask of the Representer.

Mr Arnot, the Applicant's Representative, was invited to sum up the case on behalf of the Applicant. In response to the concerns raised by Mr Boddy, Mr

Arnot stated that those matters relating only to the licensing objectives were relevant to the Application. He explained that The Cooperative Group Food Ltd was a responsible operator. He concluded by commending the Application to the Sub-Committee.

In response to a question from the Sub-Committee regarding the level of alcohol sales between 10pm and 11pm in comparison with the rest of the day, and the potential for alcohol related disruption to residents late at night, Mr Arnot explained that there was no evidence that The Cooperative Group Food Ltd could not uphold the licensing objectives on its premises during all operational hours.

In response to a question from the Sub-Committee regarding parking provision at the premises, Mr Arnot explained that there would be 10 dedicated customer parking spaces planned for the store and which were separate from the residents parking at the nearby flats.

In response to a question from the Sub-Committee, Mr Arnot explained that every Cooperative store manager would not allow a member of staff to handle or sell age-restricted items until they were satisfied that a new employee had undertaken and passed the training and examinations required.

The Sub-Committee withdrew to consider the Application. The decision was delivered as follows:

Resolved:

“Having regard to the terms of the application and all of the relevant evidence that has been put before us today, we have decided to deal with this Application by Granting it in its entirety.

The reason for our decision is that we are of the view there is insufficient evidence to satisfy us of the need to amend or impose further conditions, other than those proposed by the applicant and set out in the Licensing Report, or to refuse the Application.

In reaching our decision, we took into account of the representations made by Mrs Stanley, June Bradbury, Karen Joyce and Brian Boddy.

We also took into account of the nature and location of the premises.

We considered the concerns that have been raised in respect of public safety and crime and disorder as a result of drunken behaviour and public drinking, and in respect of the protection of Children from harm. We have considered these concerns in light of licensing law and the fact that no representations have been made by the police.

We considered the potential for a public nuisance occurring posed by the application and balanced this against the rights of local residents to peace

and quiet.

We have also considered the statutory guidance and the Council's statement of Licensing Policy where relevant.

We do not accept the evidence put forward by the representors regarding traffic congestion and parking as it relates to matters not subject to the Application and not relevant to the licensing objectives.

In addition we cannot consider the evidence put forward relating to the effect the application has on the existing business in the area as this is not relevant to the licensing objective.

We gave full consideration to the relevant terms of the Statutory Guidance, as well as our own statement of Licensing Policy. In particular, the following paragraphs of the statutory guidance: 2.18 to 2.24 (public nuisance), 9.27 – 9.37 (hearings), 9.39 (Determining actions that are appropriate for the promotion of the licensing objectives), 10.11 – 10.13 (hours of trading), and 8.6 (responsible authorities) within the Amended Guidance Issued Under Section 182 of the Licensing Act 2003 and the Guiding Principles of the Council's Licensing Policy set out in paragraph 5.1 and 5.2 and paragraph 6.2 relating to other legislation .

A written notification of the decision will be despatched in due course.

Furthermore, we would like to remind those present that under section 51(1) of the Licensing Act 2003, an interested party or responsible authority may apply to the Licensing Authority at any time for a licence to be reviewed.

In any event, there is a right of appeal under the provisions of section 181 and schedule 5 of the Licensing Act 2003 against the decision of the Licensing Committee should you be aggrieved at the outcome. The right of appeal extends to persons who have made representations either where the licence has been granted or, where they do not consider that relevant conditions have been imposed.

Full details of the right to appeal can be found within schedule 5 of the Act.

Please note that any appeal must be made within 21 days of the notification of this decision.”

The meeting ended at 11.20am

S J Gauntlett  
Chair