

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No. 3
15 MAY 2015		PUBLIC REPORT
Contact Officers:	Peter Gell, Head of Regulatory Services Darren Dolby, Licensing Regulatory Officer	Tel: 453419 Tel. 453540

APPLICATION: NEW PREMISES LICENCE

APPLICANT: Co-operative Group Food Ltd

REFERENCE NO: 071103

PREMISES: Co-operative Food, (formerly Texaco Petrol Filling Station), Oundle Road, Peterborough, PE2 7DF

GLOSSARY OF TERMS: Attached at **Appendix A** on **Page 7**

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for Co-operative Food, Oundle Road, Peterborough taking into account the representations received from 2 local residents in opposition of the application.

2. BACKGROUND INFORMATION

2.1 There has been no previous premises licence application for this premises.

3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises**

Monday to Sunday 06.00 to 23.00

- **Hours premises are open to the public**

Not declared on application

4. APPLICATION

4.1 Please refer to the application attached at **Appendix B – Pages 11 - 32** The applicant is being represented by their agent, Mr Richard Arnot of Ward Hadaway, Sandgate House, 102 Quayside, Newcastle, NE1 3DX

4.2 Representations against the application have been received from 2 local residents in their capacity as ‘other persons’. These are attached at **Appendix C on Page 33**.

4.3 Part P of the application sets out the applicant’s proposed conditions under the licensing objectives, these being, ‘The Prevention of Public Nuisance’, ‘Public Safety’, ‘Prevention of

Crime and Disorder' and 'The Protection of Children from Harm'. These are also contained within the body of this report (in section 7) and in accordance with section 10.5 of Guidance have been interpreted into enforceable conditions. Only those appropriate and proportionate for the promotion of the licensing objectives have been included in the Operating Schedule. Additional conditions have also been agreed by the applicant as a result of a mediation meeting and are contained within this section.

- 4.4 No representations have been received from any of the Responsible Authorities i.e. Cambridgeshire Constabulary, Peterborough City Council Trading Standards, Public Health Authority, Cambridgeshire Fire and Rescue Service, Licensing Authority, Peterborough City Council Planning Department, Peterborough City Council Health & Safety Department, Peterborough City Council Environmental Pollution Team, or Children's Services.
- 4.5 A 'Notice' was displayed in the newspaper in accordance with Part 4 No. 25 of Statutory Instruments 2005 No. 42 – The licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.
- 4.6 The applicant has submitted documents which include a photograph of the premises as it looks at present and two drawings of what the proposed building and site layout will look like when completed. These documents can be found at **Appendix D on Page 37**. The applicant has submitted copies of The Co-operative Food's training guide which will be provided as background information to members for the committee hearing. The applicant has further provided a copy of an opinion obtained from Suzanna Fitzgerald QC which explains the irrelevance of deliveries to the Licensing Act. This document can be found at **Appendix E on Page 41**.

5. REPRESENTATIONS

- 5.1 Summary of issues raised by persons objecting to the application:
- Residents believe that granting an alcohol licence in the residential area and near to a children's play area would lead to street drinking in the area and associated anti-social behaviour;
 - If a licence is granted there would be an increase in alcohol related incidents which the overstretched Police resources would have to deal with; and
 - An increase in littering in the vicinity of the premises.
- 5.2 There were no representations in support of the application.

6. MEDIATION

- 6.1 Mediation has been attempted between the applicant and the two local residents. The applicant had offered an additional condition as part of a mediated agreement by all parties but there has been no response from either of the residents to this offer.

7. APPLICANT'S PROPOSED CONDITIONS UNDER THE LICENSING OBJECTIVES :

7.1 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 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.
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- There shall be 'CCTV in Operation' signs prominently displayed at the premises.
- An incident log (whether kept in 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.

7.2 **Prevention of Public Nuisance**

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

7.3 **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.

7.4 **Public Safety**

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

8. **POLICY & GUIDANCE IMPLICATIONS**

8.1 The following sections/paragraphs are applicable to this application:

8.2 **Council's Statement of Licensing Policy**

- Objectives, Section 4 on Page 5 and 6
- Fundamental Principles, Section 6 on Page 6
- Licence Conditions, Section 14 page 14 and 15
- Delegation / Decision Making / Administration, Section 17 on Page 16 and 17

8.3 **Guidance Issued under Section 182 of the Licensing Act 2003 October 2014**

- The Licensing Objectives – Section 2 pages 7 to 16
- Applications for Premises Licences – Section 8 pages 49 to 58
- Determining applications – Section 9 pages 71 to 81
- Conditions Attached to Premises Licences – Section 10 page 82 to 96

9. **LICENSING OFFICER'S COMMENT (FOR INFORMATION)**

- 9.1 Regulation 19(a) requires authorities to disregard any information given by a party or person that is “not relevant” to the application.
- 9.2 Members should note that the letters and emails attached are in their entirety and that not all matters raised within the representations are relevant matters for consideration under the Licensing Act 2003. It is up to the Committee to decide upon what ‘weight’ they attach to these areas.

10. LEGAL OFFICER’S COMMENTS

- 10.1 The Licensing Authority (hereafter referred to as “the Council) is charged with implementing the provisions of the Licensing Act 2003. This is an application for a new licence made under Section 17 of the Licensing Act.
- 10.2 In this case, the application was received at these offices on 19 March 2015.
- 10.3 The application before this committee will be treated on its own merits, and the Licensing committee will make its decision based upon:
- The merits of the application;
 - The promotion of the four licensing objectives;
 - The statement of policy of the Licensing Authority; and
 - The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – October 2014.
- 10.4 The licensing authority may determine the application, depending upon what is appropriate for the promotion of the licensing objectives, in any of the following ways:
- Decide to grant the licence in the same terms as it was applied for;
 - Decide to grant the licence, but to modify or add conditions (to promote the licensing objectives);
 - Exclude from the scope of the licence a licensable activity; and
 - Decide to refuse to grant the licence.
- 10.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

APPENDIX A

LICENSING ACT 2003

GLOSSARY OF TERMS

Note: In this document, the following definitions are included to provide an explanation of certain terms included in the Act. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

‘Child’

(a) means an individual aged under 16

(b) a child is unaccompanied if he is not in the company of an individual aged 18 years or over

DCMS: Department for Culture Media and Sport

‘Designated Premises Supervisor’ means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

‘Other Persons’:

- persons who live, or are involved in a business, in the relevant licensing Authorities area and who are likely to be affected by the application and are not a Responsible Authority.

‘Late Night Refreshment’ means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

‘Licensable Activities’ means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

‘Licensing Authority’: - is the licensing function of Peterborough City Council

‘Licensed Premises’ includes club premises and events unless the context otherwise requires.

‘Licensing Objectives’

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

‘Operating Schedule’ means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

'Challenge 25' means that a retailer will ask for proof of identification if they have reason to believe that the person making a purchase of alcohol is under the age of 25.

'Rateable Value': as regards a premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(b).

'Regulated Entertainment' (Schedule 1 of the Act) means: -

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance

Except where there is an exemption under the Live Music Act 2012 or Statutory Instrument 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

Or entertainment of a similar description falling within the last three of the categories listed above, where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

'Relevant Licensing Authority': is the Authority in the area the premises are situated.

'Responsible Authority' means any of the following: -

- Cambridgeshire Constabulary (The Chief Officer of Police)
- Cambridgeshire Fire and Rescue (The Fire Authority)
- Health and Safety Team, Peterborough City Council
- Planning authority, Peterborough City Council
- Trading Standards, Peterborough City Council
- Environmental Health – Pollution, Peterborough City Council
- Children's Services – Child Protection & Review Manager
- Primary Care Trust or Local Health Board (Director of Public Health)
- The Relevant Licensing Authority, Peterborough City Council
- Maritime & Coastguard Agency, Walton on Naze. (For vessels carrying more than 12 passengers.)
- Environment Agency, Peterborough (For vessels carrying 12 or less passengers).

'Supply of alcohol':

- the sale by retail of alcohol, or
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

'Temporary Event Notice' means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and
- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year and another person to 5 notices in a similar period.

(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event).

'the Act': means the Licensing Act 2003

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