

Meeting:	REGULATORY SUB-COMMITTEE
Meeting date:	25th January 2016
Title of report:	TO CONSIDER AN APPLICATION FOR A NEW PREMISES LICENCE IN RESPECT OF: CO-OPERATIVE FOOD (THE FORMER OVERROSS GARAGE), OVERROSS STREET, ROSSON WYE, HR9 7AS - LICENSING ACT 2003
Report by:	LICENSING OFFICER

Classification

Open

Key Decision

This is not an executive decision.

Wards Affected

Ross on Wye

Purpose

To consider an application for a new premises licence in respect of Co-operative Food, (The Former Overross Garage, Overross Street, Ross on Wye, HR9 7AS.

Recommendation

That:

The Sub-Committee determine the application with a view to promoting the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives,
- The representations (including supporting information) presented by all parties,
- The Guidance issued to local authorities under Section 182 of the Licensing Act 2003, and
- The Herefordshire Council Licensing Policy.

Options

1. There are a number of options open to the Sub-Committee:

- a) Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003,
- b) Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it appropriate for the promotion of the licensing objectives and add mandatory conditions set out in the Licensing Act 2003,
- c) To exclude from the scope of the licence any of the licensable activities to which the application relates,
- d) To refuse to specify a person in the licence as the premise supervisor, or
- e) To reject the application.
- f) Adjourn the matter, to a set date, if the committee feel that to do so would be in the public interest

Reasons for Recommendations

- 2. Ensures compliance with the Licensing Act 2003.

Key Considerations

3. Licence Application

The application for a new premises licence has received representation and is brought before the committee for determination.

- 4. The details of the application are:

Applicant	Co –operative Group Foods Ltd Department 10227, 1 Angel Square, Manchester, M60 0AG.	
Solicitor	N/K	
Type of application: New	Date received: 27th November 2015	28 Days consultation ended 25th December 2015

5. Summary of Application

The application for a new premises licence requests the following licensable activities during the hours shown.

Sale of Alcohol (Off Premises) All days 0600-2300

Non Standard Timings: None

6. **Summary of Representations**

A copy of the representations can be found within the background papers.

Representations have been made by:

Two (2) of the Responsible Authorities (**Police and Trading Standards**)

The Police and Trading Standards request various conditions be placed on the licence.

Community Impact

7. Any decision is unlikely to have any impact on the local community.

Equality duty

8. There are no equality or human rights issues in relation to the content of this report.

Financial implications

9.. There are unlikely to be any financial implications for the authority at this time.

Legal Implications

10. The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that: -

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL 648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this it was stated that any condition attached to the licence should be an enforceable condition.

Right of Appeal

11. Schedule 5 gives a right of appeal which states:

- 2 (1) This paragraph applies where a licensing authority grants a premises licence under section 18.
- (2) The holder of the licence may appeal against any decision—
 - (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or
 - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).
- (3) Where a person who made relevant representations in relation to the application desires to contend—
 - (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section,he may appeal against the decision.
- (4) In sub-paragraph (3) “relevant representations” has the meaning given in section 18(6).

Section 9 states that any such appeal must be made to a Magistrates Court for the area in which the premises are situated within 21 days of notification of the decision.

Risk Management

12. There is little risk associated with the decision at this time as the legislation allows a right of appeal to the Magistrates Court.

Consultees

13. All responsible authorities and members of the public living within Herefordshire.

Appendices

- a. Application Form
- b. Police Representation
- c. Amended Police Representation
- d. Trading Standards Representation

Background Papers

None.