



LICENSING SUB-COMMITTEE

MEETING : Thursday, 7th March 2013

PRESENT : Cllrs. C. Witts, Lugg and Toleman

Officers

Also in Attendance

Tony Moseley, Licensing Enforcement Officer
Richard Barnett, Licensing Officer
Sue Mullins, Monitoring Officer and Group Manager Legal and Democratic Services
Anthony Hughes, Democratic Services Officer (Secretary)

APOLOGIES : Cllrs.

25. ELECTION OF CHAIR

Councillor Chris Witts was elected Chair.

26. INTRODUCTIONS AND PROCEDURES

The Chair introduced the Members of the Sub Committee and officers in attendance and invited the Applicant and other party to introduce themselves. The Chair explained the procedures that would be followed during the meeting which were also summarised in Appendix E to the report.

In addition to Members of the Sub-Committee and Council officers in attendance the following were present:

Jeremy Bark, Solicitor Berwin Leighton Paisner - representing the Applicant
Paul Vaughan - Store Manager, Tesco Express

Chris Teeny – Manager, Café Rene

LICENSING SUB-COMMITTEE
07.03.13

27. DECLARATIONS OF INTEREST

Councillor Toleman declared a non pecuniary interest in the subject matter being a councillor for the Westgate Ward.

28. APPLICATION UNDER SECTION 17 OF THE LICENSING ACT 2003 IN RESPECT OF TESCO STORES, 21/25 SOUTHGATE STREET, GLOUCESTER, GL1 1TP

The Licensing and Enforcement Officer presented a report detailing an application by Tesco Stores Ltd in respect of Tesco Stores, 21/25 Southgate Street, Gloucester, GL1 1TP under Section 17 of the Licensing Act 2003 to which a joint representation has been made. The application is for the retail sale of alcohol (off sales only) every 06:00 to 23:00.

Details of the application are referred to in Appendix A to the report.

The Sub-Committee had also received the following information –

A plan showing the layout and location of the premises – Appendix B

A map showing the location of the premises – Appendix C

Copy of Representations and a Petition from other persons – Appendix D

Procedure to be followed at the Hearing – Appendix E

The Licensing and Enforcement Officer referred Members to Appendix D which detailed representations received in the form of a petition from Mr. C. Atine of Café Rene of 31 Southgate Street and signed by 23 representatives of local businesses and the Gloucester Town Crier.

The Licensing and Enforcement Officer summarised the application and referred Members to the relevant sections of the City Council's Licensing Policy Statement.

Members were advised that having considered the application, any relevant representations, the legislative provisions, the Council's Statement of Licensing Policy and the Home Secretary's Guidance, they had the following options as considered appropriate and proportionate to the promotion of the Licensing Objectives.

- (a) To accept the application and attach conditions as consistent with the operating schedule.
- (b) To accept the application and modify the conditions of the license which includes altering, omitting and adding new conditions.
- (c) To reject the whole, or part of the application.

The Sub-Committee was reminded of the City Council's licensing objectives:-

- (a) The prevention of crime and disorder

LICENSING SUB-COMMITTEE
07.03.13

- (b) Public Safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

Statement by the Applicant

Mr Bark outlined the application and for a licence to sell alcohol between the hours 6.00 am to 11.00 pm Monday to Sunday at the Tesco Express Store in Southgate street which would operate as a small convenience store of less than 3000sq feet. Patterns of alcohol sales could be drawn from Tesco's operation of similar stores and the alcohol sales at such stores represented 7-9% of total sales. The only store to exceed this percentage was located in the vicinity of Lords Cricket ground, London. The majority of alcohol products sold in convenience stores were wine.

Mr Bank referred to the licensing guidance which advised that operators should be allowed to sell alcohol within their operating hours and a licence should only be refused in the event of it being demonstrated that the licensing objectives would not be met. He emphasised that there were no statutory objectives. He pointed out that the Police had not raised objection to the application.

Mr Bank commented that proposed retail format proposed was not unique and made reference to the successful operation of the existing Tesco Express at the Gloucester Bus Station. He commented that the principle behind the Licensing Act was to be permissive.

Mr Bank emphasised that all Tesco stores operated an age restrictive policy through Challenge 25. Till's programmed such that the purchase of alcohol, would prompt the operator to check whether the purchaser looked 25 or over. Posters making customer awareness of the policy were displayed prominently in stores and changed periodically. All staff were trained in the policy and the effectiveness of the policy was audit through mystery shopping using 18 or 19 year olds. The existing Tesco stores in Gloucester held a 100% pass rate. Managers were also required to periodically complete a questionnaire testing their knowledge of the Licensing Act. Staff's knowledge was also checked at 6 month training intervals and there was also modular work place training and staff could aspire to bronze, silver and gold awards under a comprehensive training scheme. Managers also undergo training including conflict training. An underlying element of the policy was to empower all staff to say 'no' to a sale if they have any doubt as to age or any other concerns that they may have as to suitability and circumstances.

In regard to the alcoholic products sold at Tesco Express stores, the retail of spirits was limited and cans were sold in no more than 4 packs. Stores had litter bins both within and in the vicinity of the premises. At the Southgate Street store there would be a minimum number of two staff and a manager but at busy times the number of staff could increase to 7 or 8.

LICENSING SUB-COMMITTEE
07.03.13

The issue of engaging security staff had been examined with the Police and a flexible approach would be adopted in this respect; security would be employed if experience and circumstances deemed necessary.

Statement by persons making Representations

Mr Teeny questioned how many of the alcoholic products would be sold in volume of 1.5 litres bottles or above. He stated that the wording of the petition was restricted based on specific concerns of traders regarding the drinking of alcohol in areas close to the store. He commented that it was felt better to try to engage with the Manager of the store to resolve these concerns, but through circumstances had to revert to submitting representations.

Mr Teeny asked Mr Bank whether Tesco staff would restrict the sale of alcohol if they thought that it was going to be consumed in the street.

Mr Bank commented that Tesco staff would absolutely refuse to sell alcohol in these circumstances. He also stated that Tesco worked closely with the Police. Any concerns with regard to activity in the vicinity would be notified to the Police.

Mr Bank commented that Tesco did sell 2 litre volume bottles of alcohol but not of high alcoholic content.

Mr Teeny enquired with Mr Bank whether there was any evidence of when people purchase alcohol e.g. whether customers were purchasing as part of an evening meal.

Mr Bank commented that it was difficult to identify trends and purpose: however it was more important to recognise the controls that Tesco's imposed on the control of alcohol.

Councillor Toleman enquired regarding the purchase of spirits and Mr Bank replied that customers wishing to purchase spirits were required to do so by asking at the Till.

Councillor Toleman enquired in regard to arrangements for waste collection from the premises. Mr Bank commented that internal waste would be collected by delivery lorries.

Councillor Lugg enquired in regard to the control of the sale of alcohol at self-serve check outs. Mr Bank commented that if alcohol was detected at a self-serve station, then the station would lock and would require a supervisor to check and un-lock.

Councillor Witts questioned whether there were any limitations on Sunday trading hours.

Mr Bank answered that the restrictions on Sunday hours of operation were different to larger supermarkets. Stores less than 3000 square feet were enabled to trade at longer operating hours compared to supermarkets.

LICENSING SUB-COMMITTEE
07.03.13

Mr Teeny referred to problems of anti social behaviour in the area and in particular to drink problems and persons interacting with customers of Café Rene and use of the pub's toilets. However he wished to point out that he did not wish to blame Tesco's for any of these issues. He considered that because of the introduction of late opening hours for the sale of alcohol there would be a recurrence of the problems and this was the main concern of businesses. There were also concerns for when customer's leave the premises of Café Rene.

Councillor Witts asked the opening hours that Café Rene operated. Mr Teeny stated that whilst the premises had a 24 hour licence, the premises closed midnight during weekdays.

Mr Teeny also commented that the operators of the Café Rene do notify the Police of incidents and there have been occasions where staff have had to split up people who have been fighting and administer First Aid. Unfortunately the area adjacent to Café Rene was an area where people congregated and there were concerns of anti social behaviour.

Summing Up

The Licensing and Enforcement Officer made a closing statement and reminded Members of the options open to them.

The applicant summed up their case.

Mr Teeny summed up his case on behalf of those who had made representations.

The Decision

That the Applicant's application for a Premises Licence is granted as applied for with the conditions contained in the Applicant's Operating Schedule together with the conditions agreed between the Applicant and the Police as Responsible Authority.

Reasons

1. The representations from Other Persons relate to imposing a terminal hour at weekends to achieve the prevention of the crime and disorder Licensing Objective. The Home Office Guidance provides that the sale of all goods, including alcohol sales should be to the same terminal hour, unless the Other Persons can prove why the time for the sale of alcohol should be restricted in this particular case. The Licensing and Enforcement Sub-Committee have had no such compelling proof presented to it to impose such a restriction.
2. The Police, as the Responsible Authority which deals with the prevention of crime and disorder, have agreed with the Applicant that additional conditions will apply to achieve this Licensing Objective. They have not asked for any terminal hours that are different to those in the Applicant's Operating Schedule.

LICENSING SUB-COMMITTEE
07.03.13

3. The application premises have not started trading yet and therefore, following case law, it would be wrong for the Licensing and Enforcement Sub-Committee to speculate on what might happen in the future with crime and disorder connected to the premises, without any real evidence.
4. “Street” drinking is the main concern put forward by the Other Persons that they say are connected to other crimes. There is a Designated Public Places Order (DPPO) in force in the City Centre and there is no reason to suggest that the Police do not have sufficient powers to deal with “street” drinkers.
5. Once the Applicant is trading from the application premises, then should the Premises Licence conditions not achieve the Licensing Objectives, it is always open to a Responsible Authority or Other Person to apply for a Review, when they will have the opportunity to present actual evidence to the Licensing and Enforcement Sub-Committee.

Time of commencement: 10:30 hours
Time of conclusion: 12:00 hours

Chair