



LICENSING SUB-COMMITTEE

MEETING : Wednesday, 5th December 2012

PRESENT : Cllrs. C. Witts, Lugg and Toleman

Officers

Alexandra Reece

Lisa Jones, Food Safety and Licensing Service Manager

Rebecca Tuck, Licensing Enforcement Officer

Luchia Wheble

Also in Attendance

Tony Wisdom, Democratic Services Officer (Secretary)

APOLOGIES : Cllrs.

13. ELECTION OF CHAIR

Councillor Witts was elected Chair of the meeting.

14. INTRODUCTIONS AND PROCEDURES

The Chair introduced the Members of the Sub-Committee and Council Officers in attendance and outlined the procedure for the hearing.

In addition to the Sub-Committee and Council Officers in attendance, the following were present:-

Mr Jeremy Bark, Solicitor, Berwin, Leighton, Paisner representing the Applicant.

Mr Robert Shaw, Operations Manager, Tesco Express, Gloucester Area.

15. DECLARATIONS OF INTEREST

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No declarations were made on this occasion.

16. APPLICATION UNDER SECTION 17 OF THE LICENSING ACT 2003 IN RESPECT OF TESCO EXPRESS, GRANGE ROAD, TUFFLEY, GLOUCESTER, GL4 OPG

Licensing & Enforcement Officer

The Licensing and Enforcement Officer presented the application for a new premises licence in respect of Tesco Express, Grange Road, Tuffley under Section 17 of the Licensing Act 2003 for the retail sale of alcohol (off sales only), Monday to Sunday (inclusive) from 06.00 to 23.00 hours.

She advised the Sub-Committee that the application had been received on 16th October and had been advertised on the premises and in the Gloucester Citizen.

She drew Members' attention to the planning restrictions in relation to opening hours and to loading and unloading of service/delivery vehicles. She emphasised that the premises licence, if granted, would not override other regulatory controls and premises operated in breach of planning permission would be liable to prosecution under planning law.

She noted the measures proposed by the Applicant to promote the four licensing Objectives – the Prevention of Crime and Disorder; Public Safety; the Prevention of Public Nuisance and the Protection of Children from Harm.

She referred to the two representations from 'Other Persons' and advised Members that they must be relevant, relate to the proposed licensable activity and its effect on at least one of the licensing objectives and not be vexatious or frivolous. She noted there had been no representations from Responsible Authorities.

Mr Bark advised that Mr Greg Bartley who had been named as the Designated Premises Supervisor in the application was the Company's national licensing manager and was named in all applications for new premises licences by the Company. A variation would be sought when the store manager had been appointed.

In answer to a question, he confirmed that an application for a variation would be made electronically.

Lisa Jones confirmed that licensing applications, with the exception of personal licences, would only be accepted by electronic means from 2013.

There were no questions relating to the Officer's report.

Applicant

Mr Jeremy Bark, representing Tesco Stores Ltd, explained that the permitted hours applied for reflected the Company's standard core trading hours for Tesco Express stores. The Company would comply with the planning restriction on opening hours

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and although it would not be unusual to seek a variation in the planning conditions in the future, he was not aware of any intention to do so at the present time.

He noted that Tesco Express was the smallest of the Company's retail formats and customers of the convenience stores typically purchased one or two bags of shopping and alcohol formed a small but important part of the total sales. He noted that there were 10 Express stores in the City and alcohol sales were typically in the region of 7-9 per cent of sales.

He noted that Tesco endeavoured to achieve best practice nationally and worked closely with the Police therefore it was not surprising that there had been no representations from the Constabulary.

He advised Members that the Company had been the first in the country to voluntarily introduce a Think 25 policy working closely with the Home Office and the Association of Chief Police Officers. He noted that everything was related to the till system. Entering an age restricted item caused a prompt to appear requiring the operator to confirm that the customer appeared to be over 25 years of age or had produced an acceptable form of identification. In addition, to assist staff the till automatically displayed the date and year of birth for somebody born 18 years ago and this was updated on a daily basis. This was backed up by regularly changing point of sale display material.

Mr Bark referred to the strict audit and training procedures employed by the Company with quarterly questionnaires to managers on licensing law and conditions together with external Mystery Shopper exercises.

The Company employed more people in senior management positions in the Midlands who had started on the shop floor than any other company. Everyone received induction and regular refresher training together with modular training. The Company had also produced its own DVD on age restricted sales which was regularly up-dated.

Managers received training in conflict resolution and there was a policy to empower staff to refuse sales if they had any concerns. Managers would always support such decisions made by staff.

A colour digital CCTV system would be installed with three fixed camera locations. A limited range of 120 alcohol products was envisaged mainly red and white wines. Spirits would not be sold in sizes less than a quarter bottle and cans in packs of not less than four.

He noted that the premises would be cleaned daily and litter bins installed outside. Alcohol deliveries would be incorporated into deliveries of other goods so would not generate additional vehicle movements. Delivery vehicles were equipped with hydraulic tail lifts which were quieter in operation than electrically powered lifts.

It was expected that 98 per cent of the refuse generated would be recycled with each delivery vehicle removing the refuse from the previous delivery.

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Mr Bark advised the Sub-Committee that Tesco Stores would not tolerate anti-social behaviour on its premises. Perpetrators were asked to stop and if they persisted were asked to leave the premises. If necessary the police would be called and the perpetrators banned from using the store. If required, a rogues' gallery of CCTV images would be maintained to identify those banned from the premises. The Company had a policy of reporting every incident in and around the premises to the Police and worked closely with Police and Community Support Officers.

He understood the concerns of residents relating to the fear of an increase in anti-social behaviour but there had been no evidence produced to support any propensity for an increase. In the Company's experience these fears were seldom realised.

He requested that should they decide to grant a licence, the Sub-Committee to leave the store opening hours blank on the licence as they were controlled by planning condition.

There were no questions from Officers.

In answer to Members' questions, Mr Bark confirmed that there was no intention to seek a variation to the planning conditions at the present time. He noted that generally staff under 18 years of age were not employed on the tills. There would always be a manager on duty and when it was necessary to employ under-18s on the tills they would be paired with an experienced member of staff.

He confirmed that there had been no identified need for security staff at the store but this would be reviewed eight weeks after opening and regularly thereafter.

The Chair advised that Mr Darren Law of Grange Road had requested that the following statement be read to the Sub-Committee:-

"I will be unable to attend the licensing hearing tomorrow due to work commitments. My objections are based on the fact this is a residential area metres from people's homes and if this licence is granted I am sure this will lead to issues surrounding anti-social behaviour due to the sale of alcohol and the late night opening of the store.

"Can you ensure my objections are heard and taken into account in my absence.

"There is plenty of evidence available to show the sale of alcohol at these type of outlets can lead to an increase in anti-social behaviour and I would like to strongly object."

Licensing & Enforcement Officer – Summing Up

The Licensing and Enforcement Officer outlined the options available to the Sub-Committee. She drew Members' attention to Daniel Thwaites v Wirral Borough Magistrates Court (2008) where the Court of Appeal quashed the Magistrates decision to restrict hours of operation of licensed premises without proper evidence and giving their own views excessive weight.

Mr Jeremy Bark – Summing Up

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Mr Bark requested that the licence be granted as requested and that the Sub-Committee would accord some weight to the lack of representation from Responsible Authorities. He reminded Members that Tesco Stores were an excellent operator of licensed premises and in the unlikely event of problems, residents had recourse to requesting a review of the licence.

The Decision of the Sub-Committee

The applicant's representatives and Officers withdrew to enable the Sub-Committee to consider their decision. Upon their return, the Chair read the decision as follows:-

This is an application by Tesco Stores Limited for a new Premises Licence relating to Tesco Express, Grange Road, Tuffley, Gloucester, GL4 OPG. The application is for the provision of the retail sale of alcohol (off sales only), Monday to Sunday (inclusive) from 06.00 to 23.00 hours.

Having considered the application, any relevant representations, the legislative provisions, the Council's Statement of Licensing Policy, the Home Secretary's Guidance, taking into account the licensing objectives and listened carefully to the presentation of the report of the Licensing and Enforcement Officers, the presentations of the parties and the responses to questions the Sub-Committee has:-

RESOLVED to grant the licence as applied for with conditions consistent with the operating schedule.

Reason

In the absence of any representations from the statutory authorities including the Police and as no evidence was produced to indicate that the application will not promote the four Licensing Objectives.

Time of commencement: 10:20 hours

Time of conclusion: 11:05 hours

Chair