

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 4th March, 2014, 10.00 am

Councillors: Manda Rigby (Chair), Anthony Clarke and Roger Symonds

Officers in attendance: Enfys Hughes, John Dowding (Senior Public Protection Officer), Kirsty Morgan (Public Protection Officer) and Shaine Lewis (Principal Solicitor)

105 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

106 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Gabriel Batt sent his apologies, Councillor Anthony Clarke was his substitute.

107 DECLARATIONS OF INTEREST

There were none.

108 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

109 MINUTES - 16TH JANUARY 2014

RESOLVED that the minutes of the meeting held on Tuesday 7th January 2014 be confirmed as a correct record and signed by the Chair (person).

110 MINUTES - 4TH FEBRUARY 2014

RESOLVED that the minutes of the meeting held on Tuesday 16th February 2014 be confirmed as a correct record and signed by the Chair(person).

111 TAXI PROCEDURE

RESOLVED that the procedure for this part of the meeting be noted.

112 EXCLUSION OF THE PUBLIC

RESOLVED "that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business because of the likely disclosure of exempt information as defined by paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act, as amended."

113 CONSIDERATION OF POLICE WARNING AND RENEWAL APPLICATION:- MR M M

The Sub-Committee considered the report which sought consideration of an official police warning obtained by Mr MM during the term of his Hackney Carriage/Private Hire Driver's Licence. Then the Sub-Committee should determine any action to be taken and consider the renewal of his Combined Hackney Carriage/Private Hire Driver's Licence.

The Licensee was present. He confirmed he had read and understood the procedure for the meeting.

The Senior Public Protection presented the report and circulated the two Disclosure and Barring Service (DBS) checks to the Sub-Committee. The Licensee and Officer withdrew from the meeting for Members to have time to consider this information.

The Licensee presented his case and made the following points:-

- he explained that English was not his first language;
- he had picked up his passenger and waited for him when he went into the Job Centre;
- when the passenger had returned to the car suddenly two police cars had pulled up to arrest his passenger and then had a warrant to search his car;
- he had never been in trouble with the police so was very scared and he told them he was a taxi driver but was told not to worry;
- when the item was found in the car he had explained that items were sometimes left in the car by passengers and he would keep them to return to the passenger later on;
- he was given a verbal warning by the police and signed it as he wanted to go home;
- when he received the DBS he said that was not what had happened and wrote a letter complaining;
- when he received the amended DBS little had changed and nowhere did it state that his passenger was arrested before the car was searched so it did not state the full story;
- he stated he did not smoke any kind of drugs.

In answer to questions the Licensee gave the following information:-

- he had tried cannabis in Bosnia when he was younger but had not done so since;
- he had picked up his passenger on a number of occasions;
- he provided some references from the schools he worked with;
- he explained the information from the police was misleading as it was not the full story.

The Licensee chose not to sum up.

Following an adjournment it was

RESOLVED to take no action in respect of the police warning and to renew the Hackney Carriage/Private Hire Driver's Licence in respect of Mr MM.

Reasons for decision

Members have had to consider a police warning referred to on Mr M's DBS check and in so doing determine whether to renew his Hackney Carriage/Private Hire Driver's Licence.

With regard to the warning Members heard that this related to possession of a cannabis grinder showing traces of green vegetable substances. Members noted the DBS did not record any convictions cautions or warnings and, that being the case, particularly in light of his representations and references found him a fit and proper person and granted his licence accordingly.

114 STREET TRADING PROCEDURE

RESOLVED that the procedure for this part of the meeting be noted.

115 APPLICATION TO VARY A STREET TRADING CONSENT TO INCLUDE THE COOKING AND SELLING OF HOT FOOD IN SOUTHGATE PLACE / BRUNEL SQUARE

The Sub-Committee considered the report which sought determination of an application to vary the Street Trading Consent to include the cooking and sale of hot food in respect of the Street Trading Pitches within Southgate Place.

The applicant was not able to be present and had sent his apologies and was happy for the application to be heard in his absence.

The applicant's case was in the paperwork.

The objector Sandra Wilcox put her case and made the following points:-

- the windows in her flat overlooked Southgate so any smells would invade her home every day 10:00 - 18:00 hours;
- measures had been taken re the escape of odours from the Cosy Club and wires had been fixed to the parapets to deter the seagulls;
- this application would attract the gulls;
- this was not acceptable in Bath a heritage city.

In answer to questions the objector made the following points:-

- she noted that cold food was already allowed and she had only seen ice-cream sold which gulls did not like;
- in his letter the applicant referred to the Christmas Market and similar events not weekly or even monthly, the objector stated that if it was just the Christmas Market at that time of year her windows would be shut so there would not be a problem but as the application was for hot food every day it gave him the potential to provide hot food throughout the year which would cause a problem.

The objector chose not to sum up.

Following an adjournment it was

RESOLVED that the application to vary the Street Trading Consent as applied for, to include the cooking and sale of hot food in respect of Street Trading Pitches within Southgate Place, be granted subject to the standard terms and conditions.

Reasons for decision

In determining the application to vary a Street Trading Consent at Southgate Place, Bath Members took into account the Local Government (Miscellaneous Provisions) Act 1982, the Council's Policy on Street Trading and the Human Rights Act 1998.

Members noted that the applicant was unable to attend this morning and had agreed that the matter should be determined in his absence. Members therefore took account of his written representations and the oral representations from the objector(s).

Members noted the applicant was seeking the ability to sell hot food to tie in with events such as the Great Bath Festival and Christmas Market. They also noted his statement that he was responsible for residential apartments in Southgate with over 150 residents and in the 4 and a half years of trading there had been no complaints and if granted he would closely monitor the situation.

Members heard that the objector's property overlooked Southgate place and she did not want the smell of cooked food every day from 10 am and the gulls attracted causing a nuisance.

Members determined, however, that given the applicant's representations, commitment and all the surrounding circumstance, Members determined that this application would not cause a nuisance. Accordingly the application was granted as applied for.

That delegated authority be given to issue the consent.

116 LICENSING ACT 2003 PROCEDURE

RESOLVED that the procedure for this part of the meeting be noted.

117 APPLICATION FOR A NEW PREMISES LICENCE FOR TESCO STORES LTD, 20 HIGH STREET, UPPER WESTON, BATH BA1 4BX

The Sub-Committee consider the report which sought determination of a new Premises Licence in respect of Tesco Stores Ltd, 20 High Street, Upper Weston, Bath.

Present:

Applicant

Jeremy Bark - representing Tesco Stores Ltd
Darren Rawlings - store manager

Representations

Cllr Colin Barrett - representing Christopher Askew and Belinda Andrews

The applicant was represented by Jeremy Bark along with Darren Rawlings the store manager. They had read and understood the procedure for the meeting.

The Public Protection Officer presented the report and explained that a new premises licence had been applied for as a result of the store expanding. The A4 blue notice that had to be displayed at the premises had been inspected as a result of those who had made representations alluding to the fact that it was not displayed in a prominent position. The inspection concluded that the notice was fully compliant with the regulations.

The applicant's representative put the case and made the following points:-

- Tesco Express stores were a convenience store aimed at people doing a daily shop or shopping for a couple of days;
- there had been a store there previously but Tesco had acquired the unit next door so the layout had changed and their policy was to apply for a new premises licence;
- it was anticipated that trading would commence in May 2014;
- alcohol sales were approximately 7-9% of total sales and a limited range would be sold at the store, 95% of alcohol sales were linked to other goods;
- the company promoted good practice and had a policy of being a good neighbour;
- they used the Think 25 Policy (a national age-verification scheme) and were the first company to introduce this which was linked to the till which would freeze and messages would pop up including checking for date of birth;
- it was now mandatory to have an age-verification scheme and the company provided training and did audits using a mystery shopper;
- they did quarterly check lists with the store manager to check all standards were being met;
- all staff undertook induction, refresher and modular training and 27% of training related to age verification, this training was accredited by the institute;
- spirits were displayed behind the counter;
- there was no public access/egress to Crown Road;
- staffing levels were high with often 7 members of staff on the shop floor;
- the company did not tolerate anti-social behaviour and displayed a 'rogues gallery' of people who were banned from the store;
- they met regularly with police community support officers;
- the Police as a statutory authority had not objected to the application;
- they had a good relationship with the community and met with ward councillors;
- they recognised that local residents had fears but other similar stores had not experienced problems and if there was any anti-social behaviour it was not linked to Tesco;
- the store manager had 19 years of experience and was a local man who knew the area well;

- in the current licensing regime it was necessary to have hard evidence to restrict a licence and if any problems arose then the licence could be reviewed.

In response to questions the applicant made the following points:-

- many of the promotions advertised on TV did not apply to the Tesco Express stores, the company did not sell alcohol below cost price, most of the promotions related to meal deals and head office set the prices not local stores;
- the applicant's representative did not have the numbers of people banned from the previous store but stated it had not been a problem store;
- it was noted in the representations that while the construction work was ongoing there had been less anti-social behaviour, in response it was stated that this could have been due to the store being closed over the festive period;
- it was noted that the crime statistics were higher for Tesco than for other similar stores but the reason was their staff were pro-active and called the police if there were any issues in the local area;
- the store manager stated there was a clear policy for anti-social behaviour in the store;
- in respect of some people shopping in their underwear or nightwear it was stated that the company promoted best practice and shoppers had to be appropriately dressed.

Representations - Cllr Colin Barrett made the following points:-

- the reason why so many locals had objected was the increase in hours which could result in more anti-social behaviour and drinking in the village;
- his relationship with Tesco was excellent and had been over the years, an example was that the village would lose its public conveniences and Tesco had agreed they would be provided in the new store;
- he made reference to a press statement about public health;
- he concluded strongly that there was no need to increase the hours.

In response to questions the following points were made:-

- the issues referred to in the representations were not present at the moment as the store was closed. Once it opened from 6am - 11pm there would more likely be problems again;
- it was noted that problems had occurred on Crown Road and noted that there was a bus shelter there, this was confirmed;
- with regard to any evidence that the alcohol was purchased from Tesco, Cllr Barrett stated that he had no evidence;
- he referred to problems with the previous stores Gateway and Somerfield and referred to the potential for problems to occur and keeping the hours 10am - 10pm;
- he commented that Tesco seemed to have kept a cap on the problems but said that adults had bought alcohol for children;

- with regard to the responsible authorities not having objected to the application it was noted that the points made referred to previous stores which had now closed;
- it was clarified that the previous licence was 08:00 - 23:00 and 06:00 - 23:00 was what was being applied for.

Summing up

The objector stated that he represented some of the objectors and residents in the village. His relationship with Tesco was excellent. His objections related to the increased hours encouraging young drinkers. He referred to problems some time ago and stated he did not want the village being referred to as the 'Wild West' again. Having longer hours meant there was potential for problems with anti-social behaviour and under-age drinking.

The applicant's representative stated that Tesco was an excellent operator and the lack of statutory authority objections confirmed this. There was no evidence to link Tesco to the problems. With regard to the tests he said need was not an issue, potential for harm was not an issue and there was no evidence, there were no current problems and historical issues related to previous stores and as regards proxy purchasing, 65% of alcohol was consumed at home. He did not think selling alcohol earlier in the morning would be a problem. He concluded by stating that the Licensing Objectives had been promoted therefore the licence should be granted.

Following an adjournment it was

RESOLVED that the application for a new Premises Licence in respect of Tesco Stores Ltd, 20 High Street, Upper Weston, Bath be granted as applied for subject to conditions consistent with the operating schedule.

Reasons for decision

Members have today determined an application for a new premises licence at Tesco Stores, Weston, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them.

Members were careful to take account of all the relevant oral and written representations from the applicant and Interested Parties and were careful to balance their competing interests.

APPLICANT

The applicant offers alcohol as part of a broad range of goods and 95% of alcohol sales are made with other goods. They have held premises licenses for many years and are approved by the British Institute of Inn-keeping. The company operates a 'Think 25' scheme and all sales of alcohol are linked to the till which freezes if alcohol is scanned. Tesco takes compliance with its obligations under the Licensing

Act very seriously and every member of staff has an induction and is given refresher training validated by the BII. The premises will be covered by digital CCTV and all spirits are located behind the checkout and the range of alcohol strictly controlled. The applicant said there will be a high number of staff at the premises, a member of staff will be responsible for the premise whilst open and antisocial behaviour will not be tolerated. He stated we have an excellent relationship with the police and have a rouges gallery of problematic customers who have been banned from premises. On a weekly basis the store's operation is reviewed and the company like to engage with the community to effect any suggested change. In conclusion the applicant stated it was noteworthy that the Police had not made any representation as the store had never had any incidents of crime and disorder or antisocial behaviour brought to its attention they were mortified that such allegations were laid at Tesco's door.

REPRESENTATIONS

Members have taken account of the written representation and heard from Cllr Barrett who represented two of the objectors. Council Barrett stated there were concerns as to the extent of the hours of sale and that there had been problems in the past particular where other operators at the premises were concerned. He stated there if the licence was granted there would be a potential for this to return, however, in fairness to Tesco, the rapport had been excellent.

MEMBERS

Members noted that no responsible authority had made representation, particularly the Police and Environmental Health Services. Whilst incidences of crime, disorder and nuisance had been referred to Members noted that these were historic. Moreover, there had not been any evidence presented directly attributing any such incidences to these premises or Tesco. Accordingly, whilst listening to the objectors' concern the application was in essence for 2 additional hours between 6 and 8 am. In the circumstances Members considered that the application would not have a detrimental effect on the Licensing objectives grant the licence as applied for with conditions consistent with the operation schedule.

That delegated authority be given to the Public Protection Officer to issue the licence.

The meeting ended at 12.00 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services