

LICENSING SUB COMMITTEE

10 SEPTEMBER 2013

Present: Councillor G Derbyshire (Chair)
Councillors H Lynch and M Meerabux

Also present: Councillor Mark Watkin
Greg Bartley, Tesco Stores
Jigen Dabal, Tesco Stores
Amit Patel, Tesco Stores
Jeremy Bark, Solicitor
Mrs Holland-Gavriilidis, Interested Party
Ms Massey, Interested Party
Mr Mehta, Interested Party
Ms Ghandarana, Interested Party
Ms Halkon, Watford Observer

Officers: Licensing Manager
Licensing Officer (PS)
Solicitor
Committee and Scrutiny Support Officer (RW)

7 COMMITTEE MEMBERSHIP/ ELECTION OF A CHAIR

The Committee and Scrutiny Support Officer confirmed that the Sub Committee would comprise Councillors Derbyshire, Lynch and Meerabux.

The Sub-Committee was asked to elect a Chair for the Hearing.

RESOLVED –

that Councillor Derbyshire be elected Chair for this Hearing.

8 DISCLOSURE OF INTERESTS (IF ANY)

There were no disclosures of interest.

9 NEW PREMISES LICENCE APPLICATION: TESCO STORES LTD, UNIT A, 1 COLNHURST ROAD, WATFORD (13/00852/LAPRE)

The Sub-Committee received a report of the Head of Community and Customer Services setting out details of a new application submitted by Tesco Stores Ltd and details of representations received.

The Licensing Officer introduced the report. She explained that an application had been received for the sale of alcohol between the hours of 6.00 a.m. until 11.00 p.m., from Monday to Sunday inclusive, for consumption off the premises. She added that the store would open during the same hours.

The Licensing Officer informed the hearing that 28 valid representations had been received which included two in support of the application. Two representations had subsequently been withdrawn. Interested parties' objections had concentrated on public nuisance, harm to children and public safety.

The Licensing Officer said that the Application had been amended and that the hours now requested for the sale of alcohol were 7.00 a.m. to 10.00 p.m.

The Chair drew attention to the table at point 3.5 on page 3 of the report and confirmed to attendees that the Hearing would now consider the amended hours instead of the hours requested on the original application.

In reply to a query from Councillor Watkin regarding sales of high strength alcohol, the Chair advised that this point had been covered under point 9.3 of the Officer's report.

Mr Bark added that this could be included in the conditions and further noted the list of conditions on page 76 of the report, specifically no. 6, which addressed the strength of beers, cider and lager in bottles or cans.

The Licensing Manager said that if conditions imposed on any licence which may be approved by the Committee were to be breached, this would be an offence which could lead to review or prosecution.

The Chair invited Ms Christine Massey to address the Hearing.

Ms Massey referred to her representation and advised that her objections were based on concerns regarding public nuisance and crime and disorder. She considered that the store would attract those who had been drinking all night, people who lived on the streets, those with a drinking problem or people who had been ejected from bars and public houses. Further purchase of alcohol would lead to anti-social behaviour and consequent problems associated with heavy drinking. These could include: aggression towards residents, in-group fighting, vandalism and behaviour frightening to children.

Ms Massey also enumerated further concerns regarding litter, including broken glass, possible detritus connected with drug taking and noise pollution. She added she had further worries resulting from reports of an increase in drinking among older people.

The Chair noted her written representation at Appendix 4N and asked whether she would be satisfied with the proposed amended licensing hours of 7.00 a.m. until 10.00 p.m.

Ms Massey replied that 7.00 a.m. was still too early to open and that alcohol should not be on sale until after children had all gone to school and that there should be shorter hours on Sundays.

In reply to a question from Councillor Meerabux regarding the area of the proposed store, Ms Massey said that she currently enjoyed the quiet residential atmosphere in this location.

The Chair then invited Ms Reena Ghandarana to speak to the Hearing.

Ms Ghandarana said that she had similar concerns to Ms Massey. She advised that the only exit from the estate was past the Tesco premises; this route was one which families walking to school were obliged to take. She did not feel that the revised hours would be helpful as children went to school to arrive at 9.00 a.m., after the store could commence selling alcohol.

Ms Ghandarana drew attention to the times when children would pass the store and the playground opposite. She noted that Nursery school-age children left their schools at mid-day and that this was a time when it was likely that they would play in the park. She felt that it was probable that this area would be one where drinkers could consume alcohol purchased at the store.

Ms Marianne Holland-Gavriilidis was then invited to address the Hearing.

Ms Holland-Gavriilidis advised that her fears were similar to those of other Interested Parties. She confirmed that there was a high footfall in the area between the hours of 7.00 a.m. and 9.00 a.m. She agreed that nuisance would be caused by heavy drinking including harassment from people near to the store begging for money. She affirmed that residents, both adults and children, would feel intimidated.

Ms Holland-Gavriilidis considered that shorter hours for the sale of alcohol would be wise; to start at 9.00 a.m. would be more reasonable and would not affect those who left their homes at an early hour. She added that she would also prefer sales of alcohol to stop at 9.00 p.m. to lessen the possibility of noise and nuisance in this area at night.

In reply to a question from Councillor Meerabux, Ms Holland-Gavriilidis said that 9.30 a.m. would probably be a more sensible time for sales of alcohol to commence as there were still a considerable number of children in the area after 9.00 a.m.

The Chair invited Mr Vikas Mehta to speak to attendees at the Hearing.

Mr Mehta advised that he had been resident at Nascot Grange for a year and drew attention to his letter of representation at Appendix 4P. He said that he did not wish to impede the right of individuals to purchase alcohol from licensed premises but he believed that this right should not affect other people in the area. He noted that having consumed alcohol, people were likely to behave in an erratic and aggressive fashion with possible harmful effects.

Mr Mehta considered that Nascot Grange was an area where there was at least one child resident in most homes. Consequently this was a family environment where it was imperative that children be protected from harm and all residents from nuisance.

Mr Mehta quoted from the Environmental Protection Act 1990 which stated that the local authority had a duty to inspect its area to detect statutory nuisances. To allow misdemeanours caused by alcohol consumption would be to fail in this duty.

Mr Mehta noted that there was the potential that the park opposite the Tesco store could be seen by some as an area for consuming alcohol. This would then become a public nuisance and, as such, harmful to children who would necessarily feel scared and uncomfortable. He echoed Ms Massey's concerns regarding broken glass and asked in how far Tesco would bear responsibility.

Mr Mehta concluded by noting the concessions Tesco had made regarding hours for selling alcohol but suggested that it would be more reasonable to restrict these hours to between 9.30 a.m. and 9.30 / 10.00 p.m.

The Chair noted that Interested Parties had expressed concerns regarding the early sale of alcohol and asked why they considered that the same problems would not exist at 3.30 p.m. when children were returning home from school.

Mr Mehta explained that children all travelled to school at roughly the same time but that traffic past the store would be more staggered during the afternoon.

In response to a question from Councillor Meerabux, Mr Mehta said that residents generally considered that the proposed hours could result in damaging an area which was currently home to many young growing families.

Ms Holland-Gavriilidis agreed that sales in the evening were also perceived as a problem.

Mark Watkin, councillor for Nascot ward, was invited to address the Hearing.

Councillor Watkin noted that the store was situated on the transit route to schools in a community where many young families were resident. He pointed out that since there were no other nearby stores selling alcohol at such an early hour; it was probable that consumers would use this location for their purchases.

Councillor Watkin then listed his concerns:

He considered that there was a significant threat of harm to children, particularly in the mornings. Looking for a place to drink, people would possibly congregate in the playground where, in the mornings, they would be more obvious than in the afternoons.

Councillor Watkin was concerned that the hours of opening would contribute to public nuisance in the area. He considered that closing at 10.00 p.m. was an improvement but that there would still be risk of nuisance between 6.00 p.m. and 10.00 p.m.

Councillor Watkin noted that other Tesco stores did not sell alcohol until after 8.00 a.m. Shorter hours of sale would minimise the threat to the new community. Responding to a query from the Chair, Councillor Watkin said the earlier closure at 10.00 p.m. was pleasing but that he was more concerned about the early opening time.

The Chair then invited Mr Bark to speak to the Hearing.

Mr Bark advised that the original planning permission, as granted in November 2011, had allowed for opening hours of 6.00 a.m. until 11.00 p.m. He said that the amended hours were proposed as a result of consultation with residents; it was believed that the hours of 7.00 a.m. to 10.00 p.m. daily were appropriate for a store in this location. He reminded attendees that none of the statutory authorities had made objections to the application and that two of the representations had been supportive.

Mr Bark assured Members that it was envisaged that 99% of sales would be to shoppers from the local area: these were the store's target customers. He stated that there would be few sales in the early morning or late at night and that the busiest trading times would be in the middle of the day.

Mr Bark then outlined Tesco's policies including criteria for store locations, the 'Think 21' policy and staff training. He described the proposed store's layout, the range of alcohol on sale, systems for dealing with litter, deliveries and waste collection. With regard to staffing, Mr Bark advised that there would be 18 staff employed, four at management level, and a minimum of six employees on the shop floor at busy times. He affirmed that anti-social behaviour would not be tolerated and that significant consideration had been accorded to possible crime and disorder in the surrounding area.

Mr Bark then addressed the concerns of the Interested Parties present. He advised that the store would be small and fully entitled to trade on Sundays; there was no evidence to support restricted hours and no evidence that street drinkers would be attracted to the store. He referred to Ms Massey's worries with regard to older people's problem with alcohol and said that this was a matter for the Public Health authorities rather than for Licensing. Similarly, concerns regarding the nature of the area was a planning issue. Mr Bark reminded attendees that the Police Authority would have objected had there been fears for children and that local schools had also raised no objections.

In conclusion, Mr Bark referred to condition 3 on page 9 of the report and advised that the wording could be changed and the notice positioned at the exit from the store.

The Chair noted that the Tesco store in Whippendell Road, Watford, sold alcohol from 8.00 a.m. He drew attention to the requested hours for the Colnhurst Road store and asked why there was an inconsistency.

Mr Bark replied that the Whippendell Road store's licence was converted from a previous licence granted in the 1960s where the permitted hours were from 8.00 a.m. until 10.00 p.m.

In response to Councillor Meerabux, Mr Bark gave a comprehensive explanation of training and security issues in Tesco stores.

Councillor Lynch noted residents' concerns regarding the store's potential negative impact on the area and asked how Tesco would build links with the local community.

Mr Bark replied that management staff would keep in touch with a representative member of the community. He added that there was an available budget to make a contribution to local services and that Tesco would try to reach out to the community.

Mr Mehta referred to Mr Bark's assertion that there was no evidence of potential trouble. Mr Mehta considered that it would be unwise to wait for proof of trouble and added that 7.00 a.m. was too early to serve customers with alcohol.

Mr Bark explained that the Licensing Act required evidence of problems occurring. In these circumstances the licence could be subject to review. Research sources suggested, however, that problems were unlikely; trouble was generally to be expected where there were existing problems.

Councillor Watkin asked whether Tesco had been prosecuted in the past.

Mr Bark replied that there had been no prosecutions within the previous two years although there had been prosecutions prior to that. He added that Tesco always acted with due diligence and that their trading practices were subject to constant improvement.

In reply to further questions from Councillor Watkin, Mr Bark said that there was no evidence to suggest there were problems of vagrancy in the Nascot area. He added that street drinkers did not necessarily drink in the area where they had purchased their supplies; the product range which Tesco intended to stock was not of the type to attract that type of clientele. He reiterated that there was no evidence to suggest that opening at 7.00 a.m. would appeal to people who would cause problems. He agreed that there was no guarantee that these problems would not occur but if they did the store would deal with them.

Ms Holland-Gavriilidis asked how quickly the store could act in the event of trouble.

Mr Bark replied that Tesco would act immediately. Mr Bartley said that this was a correct assessment and quoted an example of this type of incident.

The Chair assured Interested Parties that were problems to arise after the licence had been granted, ward councillors could seek a review of the licence; the hours could then be adjusted.

A petition was then produced by the Interested parties.

Mr Bark suggested that the petition carried little weight as it had been supplied too late in the proceedings. He reminded the Hearing that within the list of representations there had been 24 objections and two letters of support; he considered that the objections were not representative of the whole community.

In summing up for the Applicant, Mr Bark reiterated that a refusal of the application would need to be evidence-based. No such evidence had been produced. He reminded the Hearing that the hours of opening and hours for the sale of alcohol had been amended, that no statutory authorities had made objections and that two letters of support for this application had been received.

The Sub-Committee retired to make their decision.

On their return, the Chair announced their decision.

RESOLVED –

Having taken into account the provisions of the Licensing Act 2003, the Council's Licensing Policy 2011, the amended guidance to the Act of June 2013, the representations of the Interested Parties including the local Councillor, as well as the representations of the Applicant, the Sub-Committee approves this application for the licence to sell alcohol by retail for consumption off the premises during the hours of 07.00 to 22.00 from Monday to Sunday.

This approval is subject to the following conditions being imposed on the Licence:

1. No single cans or bottles of beer, lager or cider shall be sold at the premises where the individual unit size is 440ml or less.
2. There shall be no self-service of spirits on the premises.
3. A minimum of three notices must be displayed in the windows of the premises which state 'Customers are requested to park responsibly and respect our neighbours by leaving the area quietly'. These notices must not be smaller than A3 in size and in a font size clearly legible from the 16 parking bays immediately surrounding the premises.

The Sub-Committee acknowledged fears expressed by residents that the early sale of alcohol could attract street drinkers to the area with a potential for harm to children on their way to the local school. The Sub-Committee noted, however, that the imposition on the licence of condition 1 would make the premises less attractive for street drinkers.

Advisory note: The Sub-Committee would expect the Applicant to take action to amend the approved hours if the fears of residents with regard to the potential harm to children from street drinkers proved in practice to be well-founded.

Chair

The Meeting started at 10.30 am
and finished at 2.00 pm