

LICENSING ACT 2003 SUB-COMMITTEE		AGENDA ITEM No. 3
9 NOVEMBER 2012		PUBLIC REPORT
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APPLICATION: NEW PREMISES LICENCE

APPLICANT: Tesco Stores Limited

REFERENCE NO: 065754

PREMISES: Wistow Way, Peterborough, PE2 6XN

GLOSSARY OF TERMS: Attached at Appendix A – Page 5

1. PURPOSE OF REPORT

1.1 To consider and determine this application for a new premises licence for Tesco Stores Ltd, Wistow Way, PE2 6XN Peterborough, taking into account the representations received from persons other than responsible authorities as detailed in section 5 of this report.

2. BACKGROUND INFORMATION

2.1 This is a new licence application for this premises. There has been a previous licence to sell alcohol at the premises. This was when the premises was operating as a public house.

2.2 The previous premises licence allowed the premises to sell alcohol for both on & off sales and traded under the name of 'The Chequers'. The licence holders, Spirit Pub Company (Leased) Limited, surrendered the licence on 25th July 2012.

2.2 As per the application (under general description) the premises will be used as a supermarket and the sale of alcohol would be for off sales only.

3. AUTHORISATIONS AND TIMES APPLIED FOR

- **Sale of alcohol for consumption off the premises**

Monday to Sunday 06.00 to 23.00

- **Hours premises are open to the public**

Monday to Sunday 06.00 to 23.00

4. APPLICATION

- 4.1 The application was submitted to the Licensing Authority on 20th September 2012 and to the required Responsible Authorities by the applicant in accordance with the regulations and section 8.30 of Guidance. Please refer to the application attached at **Appendix B – Page 7.**
- 4.2 No representations have been received from any of the Responsible Authorities i.e. Cambridgeshire Constabulary, Cambridgeshire Fire and Rescue Service, Peterborough City Council Planning Department, Local Health Authority, Peterborough City Council Health & Safety Department, Trading Standards, Peterborough City Council Children’s Services, the Licensing Authority, or Peterborough City Council Environmental Pollution Team. No representations have been received from any other persons.
- 4.3 Representations have been received from three local residents in their capacity as ‘other persons’. These representations are attached at **Appendix C - Page 29..**
- 4.4 Part P of the application sets out the applicant’s proposed conditions under the licensing objectives, these being, ‘The Prevention of Public Nuisance’, ‘Public Safety’, ‘Prevention of Crime and Disorder’ and ‘The Protection of Children from Harm’. These are also contained within the body of this report (in section 7) and in accordance with section 10.9 and 10.11 of the Guidance have been interpreted into enforceable conditions. Only those appropriate and proportionate for the promotion of the licensing objectives have been included in the Operating Schedule.
Also in accordance with section 10.17, conditions proposed which should be included in a fire risk assessment required by the Regulatory Reform (Fire Safety) Order 2005 cannot be included within the licence.
- 4.5 A copy of the ‘Notice’ that was displayed in the newspaper in accordance with Part 4 No. 25 of Statutory Instruments 2005 No. 42 – The licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 is attached at **Appendix D – Page 35.**

5. ‘OTHER PERSONS’ REPRESENTATIONS

5.1 Summary of issues raised:

- Granting the licence would contribute to anti social behaviour and violent behaviour in the area.
- Increase in traffic and parking issues at the Napier place precinct.
- Increase in litter and vandalism
- Close proximity to primary school

6. MEDIATION

- 6.1 Mediation has been attempted between the parties. Unfortunately despite several emails Tesco’s have failed to respond with an answer regarding reducing the hours that alcohol is sold.

7. APPLICANT’S PROPOSED AND MEDIATED CONDITIONS UNDER THE LICENSING OBJECTIVES:

7.1 Crime and disorder

- Formal staff training in relation to preventing underage sales of alcohol will be conducted on a regular basis and recorded in a written format and be available to an authorised officer upon demand.
- CCTV recording equipment shall be installed and associated cameras will be maintained once a week, and will record and store digital images for a period not less than 21 days.

- CCTV cameras will be positioned so that they cover the front aspect / entrance of the property in addition to internal public rooms and the customer service area
- Upon request, CCTV will be made available to an authorised Police and Local Authority Officer
- There will be a responsible person at the premises whilst the store is open for trading.

7.2 **Protection of Children from Harm**

- The 'Think 25' initiative to prevent sales of alcohol to persons under 18 years of age will be implemented at the premises.
- Signage will be prominently placed within the premises advertising the fact that the premises operates the 'Think 25' initiative.
- Till prompts will be in place to remind the seller of the 'Think 25' policy when selling alcohol.

7.4 **Prevention of Public Nuisance**

- Tesco's will be an active member of the community and will welcome liaison with the Police and Local Authority when the need arises..

8. **POLICY & GUIDANCE IMPLICATIONS**

8.1 The following sections/paragraphs are applicable to this application:

8.2 **Council's Statement of Licensing Policy**

- Objectives, Section 4 on Page 5 and 6
- Fundamental Principles, Section 6 on Page 6
- Licensing Hours, Section 12 on Page 10
- Licence Conditions, Section 14 on Page 11 and 12
- Delegation / Decision Making / Administration, Section 17 on Page 13 and 14

8.3 **Guidance Issued under Section 182 of the Licensing Act 2003 April 2012**

- The Licensing Objectives – Section 2 pages 8 to 18
- Applications for Premises Licences – Section 8.1 to 8.44 pages 47 to 55
- Determining applications – Section 9 pages 68 to 75
- Conditions Attached to Premises Licences – Section 10 page 76 to 89

9. **LICENSING OFFICER'S COMMENT (FOR INFORMATION)**

9.1 Regulation 19(a) requires authorities to disregard any information given by a party or person that is "not relevant" to the application.

9.2 Members should note that the letters attached are in their entirety and that not all matters raised within the representations are relevant matters for consideration under the Licensing Act 2003. It is up to the Committee to decide upon what 'weight' they attach to these areas.

10. **LEGAL OFFICER'S COMMENTS**

10.1 The Licensing Authority (hereafter referred to as "the Council) is charged with implementing the provisions of the Licensing Act 2003. This is an application for a new licence made under Section 17 of the Licensing Act.

10.2 In this case, the application was received at these offices on 20th September 2012.

10.3 The application before this committee will be treated on its own merits, and the Licensing committee will make its decision based upon

- The merits of the application

- The promotion of the four licensing objectives
- The statement of policy of the Licensing Authority
- The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – April 2012

10.4 The licensing authority may determine the application, depending upon what is appropriate for the promotion of the licensing objectives, in any of the following ways:

- Decide to grant the licence in the same terms as it was applied for
- Decide to grant the licence, but to modify or add conditions (to promote the licensing objectives)
- Exclude from the scope of the licence a licensable activity
- Decide to refuse to grant the licence

10.5 Conditions are modified if they are altered, omitted or any new condition added (Section 35(4) Licensing Act 2003).

Note: In this document, the following definitions are included to provide an explanation of certain terms included in the Act. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

‘Child’

(a) means an individual aged under 16

(b) a child is unaccompanied if he is not in the company of an individual aged 18 years or over

DCMS: Department for Culture Media and Sport

‘Designated Premises Supervisor’ means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

‘Other Persons’:

- persons who live, or are involved in a business, in the relevant licensing Authorities area and who are likely to be affected by the application and are not a Responsible Authority.

‘Late Night Refreshment’ means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

‘Licensable Activities’ means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

‘Licensing Authority’: - is the licensing function of Peterborough City Council

‘Licensed Premises’ includes club premises and events unless the context otherwise requires.

‘Licensing Objectives’

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

‘Operating Schedule’ means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

'Rateable Value': as regards a premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(b).

'Regulated Entertainment' (Schedule 1 of the Act) means: -

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance

Or entertainment of a similar description falling within the last three of the categories listed above, where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

'Relevant Licensing Authority': is the Authority in the area the premises are situated.

'Responsible Authority' means any of the following: -

- Cambridgeshire Constabulary (The Chief Officer of Police)
- Cambridgeshire Fire and Rescue (The Fire Authority)
- Health and Safety Team, Peterborough City Council
- Planning authority, Peterborough City Council
- Trading Standards, Peterborough City Council
- Environmental Health – Pollution, Peterborough City Council
- Children's Services – Child Protection & Review Manager
- Primary Care Trust or Local Health Board (Director of Public Health)
- The Relevant Licensing Authority, Peterborough City Council
- Maritime & Coastguard Agency, Walton on Naze. (For vessels carrying more than 12 passengers.)
- Environment Agency, Peterborough (For vessels carrying 12 or less passengers).

'Supply of alcohol':

- the sale by retail of alcohol, or
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

'Temporary Event Notice' means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and
- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year and another person to 5 notices in a similar period.

(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event).

'the Act': means the Licensing Act 2003