

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
23 April 2012 (10.30 am - 1.05 pm)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman)

Residents' Group Brian Eagling

Labour Group Denis Breading

Present: Jeremy Bark, (representing the applicants), Greg Bartley, Chris Evans and Simon Davis (applicants), Graham Hopkins and Linda Potter (representing certain objectors), Gul Chopra, David Poole, Linda Harper, A Patel, Mr Hawkas and Mr Umer Farook (objectors), Councillors Andrew Curtin and Frederick Thompson (objectors) Inspector Blackledge and P C Fern (Metropolitan Police).

Also present were Paul Campbell (Havering Licensing Officer), the Legal Advisor to the Sub-Committee and the clerk to the Licensing sub-committee.

The Chairman advised Members and the public of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

No interest was declared at this meeting.

**1 APPLICATION FOR A PREMISES LICENCE ON BEHALF OF TESCO'S
RE 76 SOUTH STREET, ROMFORD.**

PREMISES

Tesco Stores Ltd.,
76 South Street,
Romford,
RM1 1RX

DETAILS OF APPLICATION

Application for a premises licence under section 17 the Licensing Act 2003 ("the Act").

APPLICANT

Tesco Stores Ltd.,
Tesco House,
Delamare Road,
Cheshunt,
Waltham Cross,
Herts. EN8 9SL

1. Details of the application

The premises are a single unit terrace shop with the shop area on the ground floor and offices or flats above.

Supply of Alcohol (Off supplies only)		
Day	Start	Finish
Monday to Sunday	06:00hrs	23:00hrs

(amended prior to the hearing to 09:00hrs to 22:00 hrs on Sunday to Thursday and 09:00hrs to 20:00hrs Friday and Saturday.)

At the hearing the applicants agreed to further amend the hours to 09:00hrs to 20:00hrs Monday to Sunday.

Seasonal variations & Non-standard timings

No seasonal variation or non standard timing was applied for in this application.

2. Promotion of the Licensing Objectives

The applicant completed the operating schedule, which formed part of the application to promote the four licensing objectives.

The applicant acted in accordance with premises licence regulations 25 and 26 relating to the advertising of the application. The required newspaper advertisement was installed in the Yellow Advertiser on Wednesday 7th March 2012. Public notices were displayed on the premises.

3. Details of Representations

Valid representations may only address the four licensing objectives

- The prevention of crime and disorder;
- The prevention of public nuisance;
- The protection of children from harm; and
- Public Safety.

There were forty eight (48) valid written representations against this application from interested parties. Nine of the representations were individual responses with thirty-nine being a set letter on which the individual had placed their address and signed.

The representative, Mr Hopkins, of a group of those who had submitted representations asked why others had been declared invalid. The Licensing Officer advised that he had made the decision to deem representations invalid when the representation did not include a name and/or an address, or where the objector came from outside the vicinity. Where more than one objection was received from a business address the first representation was accepted, and the rest deemed invalid. The Chairman sought legal advice and informed the representative that he accepted the view of the Licensing Officer. Mr Hopkins accepted this decision.

The thirty nine standard responses stated that the application would undermine all four licensing objectives and add to the cumulative impact caused by the number of licensed premises in Romford Town Centre. Specifically in respect of the Prevention of Crime and Disorder, they stated that the granting of the licence to Tesco's would lead to more instances of drunken people misbehaving and loitering in the street, people urinating in public causing criminal damage to shop windows, to cars and other vehicles parked in the area, violence and assault including street fighting and general anti-social behaviour

The objective of Prevention of Public Disorder would be adversely affected by more noise being caused to businesses and residents, shouting, swearing and boisterousness, more litter including cans and food wrappers. The Public Safety objective would be adversely affected by the increase in drunken people staggering across the road, gathering in groups, intimidating passers by and problems at bus stops and at the train station with people causing a nuisance and possibly falling under trains. Finally they felt that the popularity of Romford might be damaged as people would feel discouraged from taking their children to restaurants and children may be frightened by drunks loitering and staggering around.

The other representations raised similar issues and additionally raised concerns at the hours originally applied for which they felt would impact on crime and anti-social behaviour at the peak time in the town centre. Both ward councillors made reference to the saturation policy and the fact that there were good grounds for refusal. They felt the applicant had not demonstrated any exceptional grounds for granting this application.

Mr Hopkins, representing Gul Chopra, Lovejeet Singh Atkan, Joe Hussein and Stan Mezmin presented the case on behalf of the objectors.

- The objectors supported the case put forward by the Metropolitan Police.
- Those objectors who ran businesses in the vicinity of the applicant's premises had witnessed incidents over the weekend. He referred to the case of one of Mr Chopra staff had been assaulted outside Kosho's on Sunday.
- He appreciated that Tesco's had adjusted their change of hours but none of the special conditions imposed on his Client Mr Chopra had been included in the list of conditions suggested by the applicant.
- The application brought nothing exceptional to the area and one of the other Tesco Express's in the area had failed an underage sale.
- He also referred to the fact that the applicant, Tesco, could afford to sell at cost price, which his client could not afford.
- He referred to the issues in Romford with underage drinking and youths hanging around causing trouble. He further asked whether the applicant would do anything about the trouble outside the premises.

Responsible Authorities

Metropolitan Police: -.had made a representation against the application because:

- The premises fell within the saturation area of the Town Centre; and
- Police felt that the application should be refused on the grounds of saturation policy and cumulative impact; that allowing this application would not promote the four licensing objectives.

The police representation asserted that the applicant had failed to state adequately what additional steps they intended to take to promote the licensing objectives, and referred specifically to the prevention of crime and disorder, the prevention of public nuisance, and the protection of children from harm, that the Police believed would be detrimentally affected by the granting of the application.

The Prevention of crime and disorder.

- Whilst the applicant had stated they would install CCTV at the premises, this had failed in many stores to prevent crime. The Police indicated that they required additional methods of prevention to be implemented. These included alcohol being tagged, SIA security and/or specific lockable counters for alcohol display.
- The Police believed the potential for crime and disorder at this location was highly likely, with theft and theft of alcohol along with disorder from youths and drunken violence.
- Tesco's in the London Borough of Havering were a significant driver of crime for the police. Details of the Total Number of Offences for

the last five years back to 2006 were provided with an indication that Tesco's were responsible for between 2.4% and 3.4% since 2006. .

- The three main types of offences that occur were Shoplifting, Making off without payment and other theft offences.
- No other supermarket contributed to the level of TNO offences like Tesco
- Offences were most likely to occur between the hours of 13:30 hours and 19:30 hours.

The Prevention of public nuisance.

The Police suggested this had not been dealt with sufficiently, particularly given the area suffers from numerous issues of youth-related public nuisance and anti-social behaviour linked to the consumption of alcohol.

The Protection of children from harm.

The Police were concerned that the application as submitted did not provide enough protection in this area, with particular reference to fake IDs, the prevention of proxy sales, and the documentation of refusals.

Supporting grounds of saturation.

- Details of 15 off licence premises located within 500m of the proposed store were provided, along with a map detailing all the Pubs, bars and clubs within close proximity.
- The London Borough of Havering was amongst the highest areas within the Metropolitan Police for alcohol fuelled violence.
- The Police referred to pre-loading, this was where a person consumed alcohol prior to attending licensed premises.

The Police advised that the area is also a "Designated Area" in which alcohol can not be consumed outside. It had been made so due to the trouble caused by alcohol related issues.

The Police view was that the application was far from exceptional; it did not provide anything different for the town centre or offer a service or concept that was not already available, neither did it replace licensed premises which had closed.

PC Fern, at the hearing, informed of the police team dedicated to the town centre, which was due to the high number of licensed premises in the area. He advised that Kosho was the main hotspot for trouble and was right next to the applicant's premises. He advised that under the 'banned from one, banned from all' policy, there had been 279 banning notices.

A witness statement from Romford Town Inspector Michael Bates was also provided detailing his concerns for a further licensed premises in the vicinity.

The Police reiterated that in their opinion there were no conditions, no matter how strict, that they could recommend the Council impose to prevent the issues mentioned above.

Public Health: - None.

London Fire & Emergency Planning Authority (“LFEPA”): None.

Planning Control & Enforcement: None.

Children & Families Service: None

Trading Standards Service: None

The Magistrates Court: None

4. Applicant’s response.

In response to the issues raised in the representations concerning the hours, Jeremy Bark, on behalf of the applicant advised that they were prepared to restrict the sale of alcohol to Sunday to Thursday 09:00 to 22:00 and Friday and Saturday 09:00 to 20:00, or, if the Sub-Committee preferred, they would be content with 09:00 till 20:00 all week. Furthermore they had proposed that the following conditions be added to the licence to address the concerns.

- Installation of a digital CCTV system;
- Introduction of Challenge 25;
- Use of lockable display units for all alcohol products;
- Introduction of policy on proxy sales;
- Will not stock any beer/cider or lager with an ABV of over 5.5%;
- Will not sell any single cans/bottles of lager or cider where the unit size is 40ml or less;
- No spirits with an ABV of over 12%;
- Use of till prompts;
- No open vessels of alcohol allowed;
- No alcohol displayed within 3 metres of any entrance or exit;
- No local promotions on sale of alcohol;
- Will participate in ‘Safe and Sound’;
- A security guard on the premises during licensable hours;
- Will provide contact details of staff to police.

Regarding the saturation policy, Mr Bark advised that it ought not be absolute, and that each application should be determined on its merits.

He referred to the policy at paragraph 4.17 which states that the Local Licensing Authority will apply the policy flexibly.

Mr Bark advised that alcohol was a small but important part of the business of the applicant, who was targeting customers doing their shopping (around one or two days usually). Alcohol made up around 7 – 9% of total sales at Tesco Express stores, but 95% was linked with sales of other products. This was to be a convenience store, not an off-licence. There would be a limited range of alcohol available, the majority being wine, some limited beer and cider, and a very limited selection of spirits. He submitted that the 'need' for licensed premises could not be a factor in deciding licence applications, and nor could competition.

Mr Bark referred to five other Tesco Express stores in Romford, all of which operate well and promote good practice. He explained that they ran a policy called "Think 25" and had done so for a long time. They also had till prompts to check for ID, and the till freezes until such ID is seen. They also ran their own test purchases. He explained that Tesco is committed to training, preferring its employees to see their roles as a career rather than a job. The training deals with under-18s, proxy sales and intoxicated persons, and instils a policy of refusing if there is any doubt.

In terms of layout and range of products, Mr Bark advised that the small spirit range would be behind the counter, and would not be sold in less than half-bottle sizes. Alcohol would make up a small proportion, and was in a designated area as shown on the plan provided. The applicant was happy to limit alcohol to 5% of its business, to not sell beer or cider with more than 5.5% alcohol volume, and not sell any single cans/bottles less than 440 millilitres.

Staffing levels at the premises would be a minimum of 3 people, including a manager, and 6 people during busier times. There would be a minimum of 3 personal licence holders amongst the staff (as is the applicant's brand standard).

Responding to the crime statistics supplied by the Police, Mr Bark indicated that there were limitations to such data, and that the underlying information (which was not provided) often tells a different story. He advised that Tesco as a business report all criminal matters inside and outside of their stores to Police, so a number of the reported crimes will have in fact been matters they reported themselves. The top three contributors in the data provided were much larger Tesco stores, not an Express store as this premises was to be. Further, the majority of the offences were shoplifting and making off without paying, which were not alcohol related. Mr Bark submitted that little weight should be attached to the crime statistics provided.

5. Determination of Application

Decision

Consequent upon the hearing held on 23 April 2012, the Sub-Committee's decision regarding the application for a Premises Licence for Tesco Stores Ltd, 76 South Street, Romford was as set out below, for the reasons shown:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

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

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

Agreed Facts **Facts/Issues**

Whether the granting of the premises licence would undermine the four licensing objectives.

PC Fern on behalf of the Metropolitan Police stated that whilst he had received the e-mail from the applicants containing their proposed conditions he did not accept that the imposition of any conditions would make the application acceptable.

The Sub-Committee were of the opinion that the imposition of the conditions offered by the applicants would answer some of the objections raised by the Metropolitan Police. I.e. The installation of a digital CCTV system combined with the presence of a security guard on the premises during the times alcohol could be sold and the use of lockable display cabinets would go some way towards answering the Metropolitan Polices concerns. The security guard may well in fact assist the area.

PC Fern was also concerned that the applicant had failed to define an area to be licensed or the percentage of the premises, simply seeking a licence for the entire

premises. The applicants referred to the plan submitted with the application which indicated the areas from which alcohol would be sold and also agreed to a condition that no more than 5% of the premises should be used for the sale of alcohol.

The Sub-Committee felt that conditions to restrict the area allowed for the sale of alcohol, together with the suggested condition that no alcohol be displayed within 3 metres of any public entrance to or exit from the premises would mitigate the Police's concerns.

PC Fern stressed the scale of Total Notifiable Crimes which could be attributed to Tesco's. This was disputed by the applicants who had asked for a more detailed breakdown of the crimes. This was not available from the Metropolitan Police. Furthermore they referred to the additional evidence submitted by the Police and maintained that the overwhelming majority of Notifiable Offences would have been generated by the three Tesco Extra Stores and the Superstore, not the Tesco Expresses. For example drive offs without payment from petrol forecourts accounted for 43 offences in the current financial year to the end of January 2012. These could not occur at any Tesco Express. The additional figures provided showed that over 50% of the TNO's generated in the current financial year were generated by the three Tesco Extra stores.

The sub-committee were of the opinion that from the information provided it would be very difficult to justify an assumption that a new Tesco Express in Romford Town Centre was likely to a larger driver than any other Off-Licence.

PC Fern had concerns that the think 25 policy proposed by the applicant would not adequately deal with the Protection of Children from Harm objective. The applicants provided details of the Challenge 25 scheme they proposed to introduce and advised the Sub-Committee that they were one of the first retailers to introduce Challenge 25. Back in 2009. In addition till prompts will remind the cashier of their responsibilities to ensure they sell alcohol legally.

The Sub-Committee accepted that the applicant had offered sufficient conditions to tackle the issues raised by the Metropolitan Police.

PC Fern detailed the Metropolitan Police's concerns

regarding the effect of granting this licence on the saturation policy. The applicants indicated that they were prepared to amend the conditions they had suggested to prevent the sale of cider and single bottles/cans of lager. They had already offered to accept a condition that the premises would not offer any promotions which had been devised locally in store in relation to the sale of alcohol. They indicated that the promotion they would usually offered would be the meal deal whereby a customer could purchase a meal and bottle of wine for a reduced price.

The sub-committee gave serious consideration to the saturation policy and given that the policy showed that 71% of crime in the saturation area occurred between 23:00hrs and 04:00hrs did not feel able to support refusal on this ground as the applicant had indicated they were prepared to accept a restriction on the hours they could sell alcohol to 09:00hrs to 20:00hrs every day of the week.

The Sub-Committee considered the representations made by the other objectors, most of which had been covered by the Metropolitan Police and responded to by the Applicant. The Sub-Committee noted that it could not take account of the issue of competition referred to by Mr Hopkins.

Having considered the representations and responses, the sub-committee found that the cumulative impact and saturation policy created the rebuttable presumption that the application will be refused unless the applicant could demonstrate there would be no negative cumulative impact on any of the licensing objectives. However, evidence must be presented by objectors to show that granting of the licence would impact upon one or more of the licensing objectives. The crime statistics that were the basis of the saturation policy show that the vast proportion of offences occur between 23:00hrs and 04:00hrs. Given the reduced hours which the applicant had indicated he would be willing to accept, the fact that a security guard would be on duty whenever the premises were licensed to sell alcohol and the limitations on the types of alcoholic product which could be sold the sub-committee did not believe that granting this licence, subject to the conditions set out below, would add to the cumulative impact of the licensing objectives in any way. The Sub-Committee was therefore prepared to **grant** the premises licence subject to the conditions set out below:

1. Alcohol will only be sold between 09:00hrs to 20:00 hours every day;

2. A digital CCTV system shall be installed and maintained at the premises. The system shall cover many areas of the premises, including the entrance/exit, checkouts, and main alcohol display areas. Images shall be kept for a minimum of 31 days and shall be produced to a Police Officer/Police Community Support Officer, or an employee of the London Borough of Havering in a readily playable format immediately on request when the premises are open and at all other times as soon as practical. There will be sufficient staff training to facilitate this.
3. A Challenge 25 scheme shall operate at the premises. All staff will be trained and refreshed on the Challenge 25 policy. Training will be recorded and made available for inspection on the request of enforcement authorities. Any person who appears to be under 25 years of age shall not be served alcohol unless they produce an acceptable form of identification (passport or driving licence with photograph or PASS accredited card.)
4. Challenge 25 notices shall be displayed in prominent positions throughout the premises.
5. A refusals register to be kept and maintained for 12 months
6. Any customer will be banned from the premises if they are identified as attempting to purchase alcohol on behalf of persons under 18.
7. Outside the times of the licence customers will be prevented from accessing alcohol by lockable fixtures, such fixtures to include coverage of the area displaying spirits for sale.
8. The premises shall not sell any cider from the premises.
9. The premises shall not stock any beers or lagers with an ABV of over 5.5%, without the prior written agreement of the Metropolitan Police.
10. The premises shall not stock any cans/bottles of lager unless they are in a pack of four or more.
11. All spirits with an ABV of over 12% will not be available for self service and will be displayed for sale behind the checkout area only.
12. No spirits shall be stocked in bottles of less than 35cl.
13. No more than 5% of the usable floor space shall be used for the sale of alcohol.
14. Alcohol shall only be stocked in the areas shown on the plan submitted on the application without the prior approval of the Licensing Authority.
15. All alcohol products on sale at the premises must be labelled so as to identify that the product had been purchased from the store.
16. No persons carrying open vessels of alcohol shall be admitted to the premises at any time.
17. No alcohol will be displayed for sale within 3 metres of any public entrance/exit of the premises.
18. These premises shall not offer any promotions which have been devised locally, in relation to the sale of alcohol.
19. The premises will participate in local schemes such as 'Safe and Sound' if one is in operation.
20. If the general public congregating outside the premises are causing anti-social behaviour the management shall request that they leave and if the problem persists the Police shall be called for support.
21. Whilst the premises is participating in licensable activities a security guard shall be on the premises.

22. On the request of the Metropolitan Police the store will provide contact details of any member of staff, including external security employed at the store.

Chairman