

Havering Council – Decisions taken by the Licensing Sub-Committee on Wednesday, 25 September 2013

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Note: this decision list is for guidance only. The text of the minutes, which may be different, is definitive.

Part A – Items considered in public

<p>A1</p>	<p>APPLICATION FOR A NEW PREMISES LICENCE A TESCO EXPRESS STORE AT 163 MAWNEY ROAD, ROMFORD.</p>	<p>PREMISES Tesco Express, 163 Mawney Road, Romford, RM7 8AB</p> <p>DETAILS OF APPLICATION</p> <p>An application for a premises licence under section 17 of the Licensing Act 2003 (“the Act”).</p> <p>APPLICANTS Tesco Stores Ltd., Tesco House, Delamare Road, Cheshunt, EN8 9ST</p> <p>1. Details of the application:</p> <p>The application is for a premises licence as follows:</p> <table border="1" style="margin-left: 40px;"> <thead> <tr> <th align="center" colspan="3">Supply of Alcohol, Opening times</th> </tr> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td align="center">Monday to Sunday, inclusive</td> <td align="center">06:00hrs</td> <td align="center">23:00hrs</td> </tr> </tbody> </table> <p>2. Seasonal variations & Non-standard timings</p>	Supply of Alcohol, Opening times			Day	Start	Finish	Monday to Sunday, inclusive	06:00hrs	23:00hrs
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		<p>There are no seasonal variations or non-standard timings applied for in this application.</p> <p>3. Comments and observations on the application</p> <p>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 16 August edition of the Romford Recorder.</p> <p>However, this advert was somewhat ambiguous as it described the premises as ‘Tesco, Mawney Road, Romford, RM7 8AB’. Without the full postal address this could have caused confusion as there is already a Tesco in Mawney Road at 4 – 6 Fairview Parade.</p> <p>The post code RM7 8AB refers only to the Marlborough Arms, i.e. these premises. However, after discussion with the applicants it was agreed that the advert would be re-submitted with the full postal address ‘163 Mawney Road’. This advert appeared in the Romford Recorder on 23 August, 2013.</p> <p>4. Summary</p> <p>There were four valid representations against this application from interested parties.</p> <p>There were no representations against this application from responsible authorities.</p> <p>5. Details of representations</p>
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		<p>Valid representations may only address the following licensing objectives:</p> <ul style="list-style-type: none"> The prevention of crime and disorder The prevention of public nuisance The protection of children from harm Public safety <p>6. Representations</p> <p>Interested parties' representations</p> <p>The representations from the interested parties fall mainly under the headings of the prevention of public nuisance, the protection of children from harm and public safety. The three representations from the ward councillors all refer to the presence close by of a hostel for recovering alcoholics, addicts and vulnerable young people.</p> <p>The fourth representation, from a local resident, registers concern at the early opening hours and the possible detrimental effect this could have on children passing the store on their way to school.</p> <p>Mr Ryan supplemented his written representation. He had lived in the area for 27 years and he believed not enough was done to protect children from harm. His main concern was that Tesco wished to sell alcohol from 6.00am, he would be happy if this was delayed until 8.00am. He expressed concern that children making their way to school would witness people drinking alcohol outside the premises and using strong language.</p> <p>In her written representation Councillor Trew referred to the proximity of the hostel to the premises. Her written statement which she had asked to be read out was rejected</p>
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		<p>by the Chairman as it raised fresh issues, and in part was factually incorrect.</p> <p>Councillor Dervish raised the issue of harm to children with them being exposed to alcohol from 06:00 to 23:00. He considered that this was excessive in a residential area. He also referred to the closeness of the hostel and supported Mr Ryan in his desire for the sale of alcohol to start at 08:00hrs not 06:00hrs. He the read out a statement from Councillor Wallace which reiterated the same points.</p> <p>Responsible Authorities’ representations</p> <p>There were no representations from any of the Responsible Authorities.</p> <p>7. Applicant’s response</p> <p>In response, the Applicant’s agent reminded the Sub-Committee that these premises are a convenience store and the range of goods on sale would be focussed on the needs of the local community. The premises would offer a carefully selected and limited alcohol range. Approximately 120 different alcohol products would be offered for sale, and the majority of these would be red or white wine. Alcohol would only account for 7 - 9% of the stores sales.</p> <p>The concept is of offering for sale alcohol which is complimentary to the other products offered for sale, rather than a pure off-licence.</p> <p>Policies have been drawn up to safeguard the local community. The store manager is already in contact with the local police. He has arranged a meeting for three weeks before the store opens and will meet with them on a weekly basis to discuss any problems. Beat officers would be encouraged to visit the store on a regular basis to</p>

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		<p>build on this relationship. Tesco best practice was referred to – Tesco will liaise with schools and rehabilitation centres in areas in which new stores open. Tesco consider location before buying premises, and if they think they cannot operate safely and without problems, they will not continue.</p> <p>He ran through the training given to all staff to ensure there were no underage sales, including the Tesco-developed “Think 25” system, which had become industry standard, and was linked to all tills. Tesco’s comprehensive training and auditing systems were explained, there being induction training, modular training, and a training-based award system involving levels, the top of which resulted in potential promotion. He also referred to the Conflict Resolution Training provided for managers to enable them to deal with any problems caused by refusal. Tesco are audited quarterly by an independent company, and the results are fed back to management – they have an excellent record on this.</p> <p>All the spirits, and any fortified wines and champagne would be stocked behind the counter. The store would not sell miniatures, nor quarter bottles of spirits. Beers, cider and lagers would be sold in four packs, with the exception of the 750cl bottles of beer which would be sold separately. Alcohol took up only a small area in the context of the premises as a whole, and is visible from the till area, and not near the entrance/exit. The premises will have comprehensive CCTV camera coverage, including cameras on the alcohol and the tills at all times.</p> <p>Staffing levels in the store would be high, with 23 members of staff and 4 managers. Anti-social behaviour is not tolerated – anyone exhibiting such behaviour will be asked to stop, and if they don’t, the police will be contacted, and the person banned from the store.</p>

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		<p>He referred the Sub-Committee to the regulations which state that fear of a problem is not sufficient to warrant refusal, there has to be actual hard evidence of a problem. The sub-committee were also entitled to place weight on the decision of all the responsible authorities not submitting representations.</p> <p>Finally, with reference to the opening time of 06:00hrs he referred to the Council's own policy which states that a licence should be granted in line with the store's opening hours.</p> <p>Reference had been made by one of the objectors to the nearby Aldi store which closed at 6.00pm. This was correct but the store had a licence to sell alcohol until 11.00pm. The other Tesco store on Mawney Road operated from 6:00am until 11:00pm.</p> <p>8. Determination of Application</p> <p>Decision:</p> <p>Consequent upon the hearing held on 25 September, 2013, the Sub-Committee's decision regarding the application for a Premises Licence for Tesco Express, 163 Mawney Road, Romford is as set out below, for the reasons shown:</p> <p>The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder • Public safety • The prevention of public nuisance • The protection of children from harm

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		<p>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.</p> <p>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.</p> <p>Agreed Facts <u>Facts/Issues</u></p> <p>Whether the granting of a premises licence would undermine the licensing objectives.</p> <p>The protection of children from harm.</p> <p>The representations submitted suggested that with a school nearby and a rehabilitation centre that catered for those with alcohol addictions, that 6:00am was too early to begin serving alcohol. There was a concern that young people may be exposed to alcohol and its effects on the way to school, and that the lure of alcohol so close to a refuge for alcoholics was dangerous, particularly early in the morning.</p> <p>Public safety, protection of children from harm and public nuisance.</p> <p>Mr Bark, for the applicant, explained that this was not an unusual location for a Tesco store, and that many were near schools. He submitted that the policies and training put in place by Tesco would ensure there would be no risk to children. He further advised that many Tesco stores were close to shelters and refuges, and had experienced no problems. Tesco were aware it was there, and would be making contact and arrangements with them.</p> <p>Firm evidence of problems was required to refuse an application, and in this case there wasn’t any. Furthermore no representation had been made by any of the responsible authorities.</p>

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		<p align="center">In the event of the concerns raised becoming a reality, the residents have the power to bring the premises to a review.</p> <p>The Sub-Committee stated that in arriving at this decision, it took into account the licensing objectives as contained in the Licensing Act 2003, the Licensing Guidelines as well as Havering Council’s Licensing Policy.</p> <p>The sub-committee had listened carefully to the objections and taken due regard, particularly in relation to the protection of children from harm. They have, however, been assured that Tesco have various policies in place to address all of the potential issues raised and therefore grant the licence as applied for.</p> <p>9. Right of Appeal</p> <p>Any party to the decision or anyone who has made a relevant representation [including a responsible authority or interested party] in relation to the application may appeal to the Magistrates’ Court <u>within 21 days of notification of the decision</u>. On appeal, the Magistrates’ Court may:</p> <ol style="list-style-type: none"> 1. Dismiss the appeal; or 2. Substitute the decision for another decision which could have been made by the Sub Committee; or
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		<p>3. Remit the case to the Sub Committee to dispose of it in accordance with the direction of the Court; and</p> <p>4. Make an order for costs as it sees fit.</p> <p>James Goodwin</p> <p>Clerk to the Licensing Sub-Committee</p>