

LICENSING SUB COMMITTEE

4 February 2019
10.10 am - 12.45 pm

Present: Councillors McQueen, Sargeant and Thittala

Officers

Senior Technical Officer: Luke Catchpole
Legal Advisor: Shirley Tracey
Committee Manager: Sarah Steed

Present for the Applicant

Licensing Manager Tesco: Hardish Purewal
Solicitor BCLP: Jeremy Bark
Store Manager East Road

Other Persons

Councillor Robertson
Councillor Bick
Mike Davey

FOR THE INFORMATION OF THE COUNCIL

19/6/Lic Appointment of a Chair

Councillor Sargeant was appointed as Chair for the meeting.

19/7/Lic Declarations of Interest

No declarations of interest were made.

19/8/Lic Meeting Procedure

All parties noted the procedure.

19/9/Lic Tesco: 172 East Road

The Senior Technical Officer presented the report and outlined the application.

In response to Members' questions the Senior Technical Officer confirmed that each application should be judged on its own merits.

Applicant's Representative

Mr Bark made the following points on behalf of the Applicant:

- i. There was an amendment to the application, the application currently sought a premises licence to supply alcohol (off the premises) between 7am until 10pm Monday to Sunday however a revised application sought a premises licence to supply alcohol (off the premises) between 11am until 8pm.
- ii. He referred to the Cumulative Impact Policy and the test which was contained within paragraph 5.10. He explained that this was in fact a two stage test.
- iii. In any event this application would not add to the cumulative impact.
- iv. Previous premises licence applications had been submitted but each application should be determined on its own merits.
- v. There had been no representations from the Police on this application and no Responsible Authorities had objected.
- vi. The application had been developed over a period of 2 years and there had been extensive consultation with the Police and Jimmy's homeless shelter.
- vii. The Police were the guardians of the Cumulative Impact Policy (as they had requested the policy). The Police were happy with the hours that the application covered. The subsequent modification to the hours applied for at the hearing was to give reassurances to the community.
- viii. Tesco Express stores were a convenience store, typically customers bought shopping for the next day or day and a half and spent around £15 and left with 2 bags of shopping.
- ix. The store had a product range of around 5000 and 100 alcohol products which were mostly red and white wine.
- x. 95% of sales of alcohol were linked to the sale of food.
- xi. This store had the best performance of 'shrinkage' in the area.
- xii. Referred to a plan on p33 of the agenda which provided details of the proposed store layout. The alcohol display would be at the furthest point away from the entrance.
- xiii. Tesco treated any application for a premises licence seriously.
- xiv. Did not believe that the application would add to the cumulative impact.

- xv. Referred to paragraph 4.3 of the policy which stated that licensing was a small element of dealing with anti-social behaviour.
- xvi. There had been a decline in the incidents in relation to alcohol related crime.
- xvii. Tesco was a responsible operator and neighbour.
- xviii. Tesco was the first operator to have a 'think 21 policy' and then changed this to a 'think 25 policy'.
- xix. If an age restricted product was scanned at the till, it required a member of staff to override this either by confirming that ID was shown or that the person was clearly over 25. The till would also display the date of birth for a person who would be 18 on that date, so that it was easy for staff to carry out an ID check.
- xx. Tesco undertook their own mystery shopping checks, using 18/19 year olds. They cannot use children younger than 18 as only Trading Standards and the Police have powers to do so.
- xxi. Safe and Legal checks were carried out quarterly, this included checking premises were complying with their conditions and this would be signed off by Store Managers.
- xxii. All staff members received training on age restricted products this was refreshed yearly and at busy periods during the year.
- xxiii. All Managers had conflict training so they had the right tools to deal with situations involving conflict.
- xxiv. Tesco operated a 'you say no, we say no' policy to support members of staff who refused to sell age restricted products to customers.
- xxv. There was always CCTV in stores and there would always be a fixed camera on the entrance, tills and alcohol displays.
- xxvi. Tesco did not sell miniature alcohol products unless they were part of a gift set.
- xxvii. Referred to a condition agreed with the Police that there would be no displays of alcohol within a certain distance of the door.
- xxviii. One of the representations requested that the Designated Premises Supervisor (DPS) was on site during the hours that alcohol was proposed to be sold. This was not possible as it would breach the working time directive. It was proposed to have a minimum of 3 DPS's for the store.

- xxix. The delivery of alcohol would be incorporated with the delivery of other goods (between 6-7).
- xxx. Following liaison with residents Tesco had reduced the size of the vehicle used for deliveries.
- xxxi. Commented that their cleaners not only cleaned the store but also 2 bins outside the store.
- xxxii. Referred to security guard conditions detailed on p41 and 42 of the agenda if the application was granted.
- xxxiii. Tesco expected customers to behave themselves in the store, if they didn't they would be asked to leave and if they still persisted with anti-social behaviour they would be banned from the store and images of the individual/(s) would be provided to the Police.
- xxxiv. Risk assessments were undertaken every 8 weeks. Tesco would consider if they could be doing things better or should be doing things better.
- xxxv. 5000 meals had been donated to Jimmy's homeless shelter.
- xxxvi. There were no local promotions, all came from the Head Office and tended to be linked to meal deals. Would be happy with any conditions relating to this.
- xxxvii. Tesco had other stores in Cambridge that were in the cumulative impact area.
- xxxviii. Would be happy to discuss a refusal book condition?

Member Questions

Mr Bark made the following statements in response to Members' questions:

- i. The application may have the appearance of a standard application but this was not the case. Referred to p32 of the agenda and the conditions agreed with the police. These were not standard conditions and had been designed to address their concerns.
- ii. Referred to steps proposed to promote the licensing objectives contained on p29 of the agenda. In particular the Licensing Objective for crime and disorder objective this stated that 'a member of the Management team will ordinarily be on the premises all the time the store is open...'. The word ordinarily could be amended to 'except in the case of an emergency'.

- iii. In relation to the licensing objective 'prevention of children from harm', Tesco had the best system in terms of age restrictions. Referred to a community safety partnership in 2007, where Tesco was the only retailer prepared to participate.
- iv. Commented that there had been no specific contact with the local school and noted that the school did not object to the application and he thought that the school had objected to previous applications.
- v. Commented that there would always be someone on site to be able to download CCTV. There was an agreement in place with the Police to keep CCTV films for 31 consecutive days.
- vi. The Police suggested because of the issue of street drinking and the location of the homeless shelter, that Jimmys were consulted. Discussions had taken place with Jimmys and they did not make any representations against the application.
- vii. Understood representations from the Ward Councillors and commented that a careful and responsible application had been submitted and referred to the further amendments to the licensable hours that had been put forward at the meeting.
- viii. Referred to pubs in the area that had longer trading hours than them, which could be open until 2-3am.
- ix. Noted that public spaces had reduced ability for people to be able to consume alcohol on them.
- x. Confirmed that Tesco would be happy to put in place liaison groups with Ward Councillors and residents.

Other Persons

Councillor Robertson addressed the Committee as a Ward Councillor for the area:

- i. He had asked the Safer Communities Manager to provide views to the Committee regarding the cumulative impact policy as there was a lot of anti-social behaviour in Cambridge. East Road was a hotspot and also the area outside Petersfield mansion.
- ii. There was a long history of anti-social behaviour in Norfolk Street and other streets in the area.
- iii. Last summer there were problems with people drinking in the area and when residents phoned the Police, they did not turn up.

- iv. There were instances of intimidation in the area and people relied on the cumulative impact policy to ameliorate concerns.
- v. A Public Spaces Protection Order (PSPO) had been put in place for Petersfield Green and areas on Mill Road.
- vi. The Police were overstretched, and when he had spoken with the police representative at the East Area Committee, the Police Sergeant had said that he had not been consulted about this application.
- vii. The application was on the boundary of 2 wards in the City. He understood that the police officer who covered the West Central Area of the city had been consulted about the application.
- viii. Expressed concerns that the cumulative impact was being undermined and commented that he did not think that the applicant had demonstrated that there would be no adverse impacts.

Councillor Bick addressed the Committee as a Ward Councillor for the area:

- i. East Road was a dividing line for city ward boundaries.
- ii. An application for a premises licence had been submitted twice before and had been rejected. A third application was made but rejected and the decision was upheld by the Magistrates Court.
- iii. Questioned how the situation had changed since previous applications.
- iv. The applicant stated that the police had not made any representations.
- v. Referred to a lack of evidence and data to support the application.
- vi. In relation to the cumulative impact policy, the presumption was that further premises would aggravate the policy unless there was evidence to the contrary.
- vii. Felt the application had a pro-forma approach.
- viii. Questioned how the applicant could expect an approval with fewer conditions than other licensed premises.
- ix. Referred to the plan included in the agenda pack and commented that this did not make it clear where alcohol would be sold / located and commented that specifics needed to be included in the application.

Mike Davey made the following comments:

- i. Referred to the licensing objective to promote public safety and commented that he appreciated the steps that Tesco had taken to ameliorate issues in the shop but the problem was outside the shop.
- ii. St Matthews Primary School was a large school which had around 600 pupils.
- iii. He thought that Tesco should have had discussions with the Primary School regarding the application.

- iv. Referred to a green space opposite the primary school and the fact that people tended to congregate there and drink alcohol.
- v. Questioned if there had been any discussions with residents of Staffordshire Garden.
- vi. The incidence of disorder around the area had not changed.
- vii. Commented that the application should be refused on the basis that the application did not promote the public nuisance and protection of children from harm licensing objectives.

Mr Bark raised an issue about the Safer Communities Manager being able to address the Committee and said that any representations could have been made during the relevant consultation period and there may be evidence that they would not have had time to prepare for. It was then agreed that the Safer Communities Manager could read from a pre-prepared statement.

The Safer Communities Manager made the following comments:

- i. As Safer Communities Manager it was part of her role to address street based anti-social behaviour across the city.
- ii. The City Council received complaints about street based anti-social behaviour, which included begging, drug dealing and drug and alcohol use. The areas most affected were Burleigh Street, the Grafton area and Fitzroy Street.
- iii. The City Council was currently seeking injunctions against a number of people who engaged in begging and street based anti-social behaviour.
- iv. Warning letters had been issued to people in the area advising that legal action would be taken if they continued with their anti-social behaviour.
- v. Initiatives had been introduced like the Public Spaces Protection Orders (PSPO) which prohibited drinking in Mill Road and Petersfield Green and had allowed these areas to be returned back to general public use.
- vi. Believed the sale of alcohol in Tesco East Road store would contribute to the return of previous problems on the Green with increased begging and anti-social behaviour.
- vii. Conditions agreed with the Police addressed the sale of alcohol to underage people but it was unclear what role security staff or staff in checkout areas would play.

Mr Bark made the following statements in response to Members' questions:

- i. There was little that could be done with rough sleepers whilst the shop was closed. Security staff or the store manager would ask rough sleepers to move on during opening hours.

- ii. During the day if staff thought that customers were trying to buy items for the rough sleepers this would be discouraged.
- iii. The situation had improved with the current Store Manager in post. The statistics on incidents had reduced.
- iv. Recognised that parents were valued customers.
- v. Tesco would have a higher incidence of calls to the Police as they would always keep them informed of any incidents that occurred around their stores.
- vi. The function of security guards was to reduce the incidence of thefts but also to provide a point of contact for people outside the store.
- vii. In response to a member's question whether they would consider having 2 members of security staff during 3-4pm, he said that an extra security guard would be considered as part of the store's risk assessment.
- viii. The area around the Tesco store had changed. He noted that references made in representations were to historic problems.
- ix. When the Police had concerns they would make a representation.
- x. The representations only referred to fears as Tesco was not currently trading during these times.
- xi. The premises' was unlikely to add to the cumulative impact. Tesco were happy to have a further liaison with the community. They had established close links with the homeless shelter nearby. They sponsored 2 other homeless shelters.
- xii. Noted that there were no problems in and around the store between 3-4pm and if any issues arose, staff would deal with them immediately.
- xiii. They did not want a situation where people outside the store were trying to get people to buy them alcohol from the store. If this happened the matter would be investigated and if necessary they would ban people from the store.
- xiv. Would be happy to host monthly or bi-monthly meetings with the Primary School / Ward Councillors and residents so that their views could be taken into consideration.

Summing Up

Mr Bark made the following points:

- i. A number of criticisms had been made about the application but it had been carefully thought through.

- ii. They had liaised with Jimmy's the local homeless shelter in the area.
- iii. A number of conditions had been offered to respond to issues that had been raised.
- iv. Had proposed to reduce the licensable hours that had been originally applied for.
- v. If the licence was granted this did not mean that people's fears would be realised.
- vi. Referred to paragraph 9.12 and noted that statutory consultees had not made any objections to the application and hoped the application would be granted.

Members withdrew at 12:00 pm and returned at 12:45 pm. Whilst retired, and having made their decision, Members received legal advice on the wording of the decision.

Decision

The Sub Committee resolved to reject the application.

Reasons for reaching the decision were as follows:

The application was likely to add to the existing cumulative impact. Relevant representations had been made, the applicant had made very little attempt to demonstrate why the operation of the premises involved would not add to the cumulative impact already being experienced.

The meeting ended at 12.45 pm

CHAIR