

**LICENSING SUB COMMITTEE**

4 February 2019  
2.00 - 4.00 pm

**Present:** Councillors Benstead, Gehring and Page-Croft

**Officers**

Senior Technical Officer: Luke Catchpole

Legal Advisor: Shirley Tracey

Committee Manager: James Goddard

**Present for the Applicant**

Applicant: Hardish Purewal (Tesco Licensing Manager)

Applicant's Representative: Jeremy Bark

**Other Persons**

Councillor Bick

<b>FOR THE INFORMATION OF THE COUNCIL</b>
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**19/1/Lic Appointment of a Chair**

Councillor Benstead was appointed as Chair for the meeting.

**19/2/Lic Declarations of Interest**

No declarations of interest were made.

**19/3/Lic Meeting Procedure**

All parties noted the procedure.

**19/4/Lic Tesco: 5 Christ's Lane**

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

Member Questions

In response to Members' questions the Senior Technical Officer confirmed that responsible authorities had not responded to the consultation. Conditions on

P32 of the Officer's report were agreed with the Police prior to Tesco's submission.

Mr Bark said there were additional details on P37-38 of the Officer's report.

### Applicant's Representative

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

- i. Plans in the committee papers had not copied well so tabled clearer A3 copies for reference by Officers, Committee Members and (Ward) Councillor Bick.
- 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. There had been no representations from the Police on this application and no Responsible Authorities had objected.
- v. The premises had not been fitted out by Tesco yet. If a licence was granted it was hoped the store would open during August 2019.
- vi. The store had not opened yet, or sold alcohol yet, so there was no history of problems.
- vii. Tesco had undertaken extensive consultation with the Police to agree conditions before the application was submitted. Further discussions were held with the Police after submissions which led to further CCTV conditions. There were no objections from residents, the Police or other responsible authorities as a result.
- viii. Noted that two Ward Councillors had objected to the application as it was located in a cumulative impact zone.
- ix. It was still appropriate for Tesco to apply for an alcohol licence.
- x. Tesco understood the city well. There had been no cumulative impact issues from other Tesco stores.
- xi. The 06:00-23:00 store operating hours had been discussed with the Police.
  - a. The Committee could amend these if they had concerns (as raised in Councillor Bick's representation).
  - b. Other off licences in the area had longer operating hours already.
  - c. Tesco did not anticipate any negative impact on the cumulative impact area due to their operating policies and procedures.

- xii. Tesco were seeking to put in a convenience store where alcohol would be a small but important part of the product range. It was expected alcohol would be bought with other goods.
- xiii. Tesco had detailed policies and training programs covering the sale of alcohol.
- xiv. Tesco was the first operator to have a 'think 21 policy' and then changed this to a 'think 25 policy'.
- xv. 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.
- xvi. 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.
- xvii. 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. Details were reported to Head Office at least twice per year, and could be up to four times.
- xviii. All staff members received training on age restricted products this was refreshed yearly and at busy periods during the year.
- xix. Tesco operated a 'you say no, we say no' policy for managers to support members of staff who refused to sell age restricted products to customers.
- xx. There was always CCTV in stores and there would always be a fixed camera on the entrance, tills and alcohol displays.
- xxi. Strong alcohol was stored behind a manned counter, not in the self-service section. Other types of alcohol (eg wine) would be located in the aisle near tills (away from the entrance).
- xxii. Alcohol was usually sold in half bottle or larger unit sizes to discourage anti-social drinking. Tesco did not sell miniature alcohol products unless they were part of a gift set.
- xxiii. Alcohol would be delivered with other items so should not cause any additional impact.
- xxiv. Tesco agreed a condition with the Police to have a security operative in the store along with other staff.

- xxv. People who behaved inappropriately would be asked to leave and banned if necessary.
- xxvi. Tesco looked out for issues in close vicinity to its stores and reported them to the Police (to be a good neighbour).
- xxvii. Tesco only applied for a licence where it was confident it could deliver according to conditions.
- xxviii. Referred to paragraph 9.2 of the Officer's report that said a licence should be granted unless concerns were raised.

### Member Questions

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

- i. Anticipated very few people would buy alcohol at 07:00, but people shopped at different times of the day. Was confident there would be no issues from sales.
- ii. A lot of work had been done on reviewing the impact of alcohol sales on local residents. Tesco had policies in place to mitigate this. Ms Purewal said Tesco worked with local universities and housing groups if people wanted to raise concerns in an area.
- iii. Noted concern that 18-30 year olds may be disproportionately affected by alcohol sales. Referred to condition 3. Tesco had a carefully targeted alcohol range (eg red and white wine) that was less attractive to students.
- iv. If there was evidence that Tesco alcohol sales lead to problems, the products would be removed from shelves. It was hard to do this without evidence for competition reasons, ie items could also be sold by competitors.
- v. Alcohol would be sold from a single sided aisle. This would include beer, and wine in a refrigerated section.
- vi. There shall be no beer, lager or cider with an AVB content of 5.5% or above except for specialist branded premium priced products (at least £2.50/glass) or products agreed by the Police.
- vii. Tesco Express promotions were set by Head Office. Generally Tesco Express stores were excluded from promotions (in the small print of adverts) as more could be done in larger stores.
- viii. Tesco stores used the same (high standard) policies regardless of whether stores were in a cumulative impact zone or not. That is, all

stores operated as if they were in a cumulative impact zone, even the ones that were not.

- ix. All stores undertook continuous risk assessments.
- x. There may or may not be security operatives in other Tesco stores, but one would be employed by the Christ's Lane store (if application successful) due to alcohol being on the premises.
- xi. It would not be possible to have one Designated Premises Supervisor on duty to cover all operating hours as this would need to be one person. Instead three personal licensees were suggested.
- xii. Staff were trained to refuse sales to anyone who appeared to be inebriated.
- xiii. Generally alcohol consumption was lower in people under thirty (years) than over. This could vary across geographical areas.
- xiv. Alcohol related anti-social behaviour had reduced by around two thirds in areas around the proposed store site. The amount of alcohol supplied may not have reduced in the same way.
- xv. Most young people obtained alcohol at home. The checkout system had triggers to prevent sales of large quantities of alcohol in a single transaction.
- xvi. If the council or Police feedback issues, Tesco would review the situation.
- xvii. There were effective mitigation policies in place to prevent issues (as much as reasonably possible). Ms Purewal gave some examples:
  - a. Re-iterated staff were trained not to sell alcohol to people who appeared inebriated.
  - b. Some stores (such as Cardiff) had breathalysers so staff could demonstrate to customers why they refused a sale.
  - c. Tesco reported anti-social behaviour issues to the Police, even if Tesco was not involved, for good community relation reasons. These were logged as 'Tesco issues' although stores may not have been involved. This has led to a good working relationship with the Police.

### Other Persons

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

- i. Begging, anti-social behaviour and abandoned assorted detritus were issues associated with alcohol.
- ii. Christ's Lane was a mixed use street of businesses and residences. It was close to a premier open space in the city. Public nuisance as a result of alcohol sales from Tesco was undesirable.
- iii. There was a rebuttable assumption that businesses would exacerbate the cumulative impact by selling alcohol unless they could prove otherwise. There was no evidence of this from Tesco. The application should be refused unless it could disprove the rebuttable presumption.
- iv. Queried how the applicant could seek approval with fewer licence conditions than those given to other premises in the city centre.

### Member Questions

In response to a Member's question Councillor Bick suggested that the Police had not responded to the consultation as they were overstretched and so concentrated on other priorities. They also had difficulty in responding to all reported incidents.

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

- i. The Panel put great weight on any objections received from the Police. They should put an equal amount of weight on a lack of objections.
- ii. The Police had liaised with Tesco prior to submission of the licence application.

The Chair said that it was common practice for applicants to negotiate conditions with the licencing authority prior to making an application in order to overcome concerns. The decision then came to committee for consideration.

### Summing Up

Mr Bark made the following points:

- i. Tesco had presented a well thought out application.
- ii. The lack of objections from statutory authorities demonstrated the application would not add to the cumulative impact.
- iii. The application sought similar conditions to Sainsbury's in the city centre.
- iv. Tesco were happy to change the operating hours and licence conditions if Councillors had concerns.

Members withdrew at 3:00 pm and returned at 3:45 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:

That given the location of this premises in the cumulative impact zone, the Committee felt that the proposed measures made by the applicant, including the additional conditions by the Police, were not strong enough to rebut the presumption that this application added to the cumulative impact.

The meeting ended at 4.00 pm

**CHAIR**