

**CONSIDERATION OF AN APPLICATION FOR A PREMISES
LICENCE TO BE GRANTED
Tesco Stores Ltd, 5 Christs Lane, Cambridge, CB1 1NP**

To: Licensing Sub Committee:

Report by: Luke Catchpole (Senior Technical Officer)

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Wards affected: Market

INTRODUCTION

- 1.1 An application under section 17 of the Licensing Act 2003 for a Premises Licence to be granted in respect of Tesco Stores Ltd, 5 Christs Lane, Cambridge, CB1 1NP was received from Tesco Stores Ltd, Shire Park, Kestrel Way, Welwyn Garden City, Hertfordshire, AL7 1GA. The application was served on Cambridge City Council (the Licensing Authority) on 10th December 2018. A copy of the application was also served on each responsible authority. The application and plans of the premises is attached to the report at Appendix A.

- 1.2 In accordance with the regulations of the Act, the application was advertised on the premises and in the Cambridge News to invite representations from responsible authorities and other persons. The last date for submitting representations was 7th January 2019.
- 1.3 Representations were received from two other persons, attached to the report as Appendix B. No representations were received from any of the Responsible Authorities however Cambridge Constabulary agreed conditions with the applicant before the application was submitted. Cambridge Constabulary agreed a further condition with the applicant relating to CCTV during the representation period.
- 1.4 The application was heard by the Licensing Sub-Committee on Monday 4th February 2019 and the decision was made to reject the application.
- 1.5 Tesco Stores Ltd appealed the decision to Cambridge Magistrates Court.
- 1.6 Ahead of the first court appearance, Tesco Stores Ltd made amendments to their original application. The hours to supply alcohol now proposed are 11am to 8 pm (previously 7 am to 10 pm) and 6 extra conditions have also been added. The basis of the application for a premises licence is attached to this report as Appendix C. The 6 extra conditions are Condition 8 and Conditions 12 to 16 inclusive.
- 1.7 On 9th May 2019, at Cambridge Magistrates Court, Tesco Stores Ltd requested that the appeal be remitted back to Cambridge City Council under section 181 of the Licensing Act 2003 for redetermination by the Licensing Sub-Committee on the basis of the information included in Appendix C, which sets out the revised hours and conditions to be imposed.
- 1.8 Cambridge Magistrates Court agreed to the request and remitted the application back to the Licensing Sub-Committee for members to consider and determine the remitted application based on the amendments made by the applicant. A copy of the decision is attached to the report as Appendix D.
- 1.9 The two other persons that made representations have been notified of the amendments and asked as to whether this has any impact on their original representations. At the time of writing this report no

response has been received from either of the two other persons.

1.10 The remitted application needs to be determined.

2. RECOMMENDATION

2.1 That Members determine the application on its individual merits having reference to the statutory licensing objectives and Cambridge City Council's Statement of Licensing Policy.

2.2 Members are not looking at the original decision or deciding whether that decision was correct or not. Members are also not looking at the original application. The decision to be made is based on the amended application in Appendix C. The two representations made are still applicable and members can look at them in conjunction with the amended application.

3. BACKGROUND

3.1 The premises are located within a cumulative impact area. It is therefore subject to a special policy on cumulative impact. The special policy creates a rebuttable presumption that applications within cumulative impact areas for any new premises licence or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received about the cumulative impact on the licensing objectives.

3.2 This is unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced. The Council's Statement of Licensing Policy contains information on the cumulative impact. The section relating to cumulative impact has been taken from the policy and attached to the report as Appendix E.

3.3 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy and additionally the statutory guidance issued under Section 182 of the Licensing Act 2003. The relevant sections from the Council's Statement of Licensing Policy are:

- Objectives, section 2

- Fundamental principles, section 4
- Cumulative impact, section 5
- Licensing Hours, section 6
- Licence Conditions, section 8

4. CONSULTATIONS

- 4.1 The Licensing Act 2003 requires applications made under section 17 of the Act to be served on the Responsible Authorities and also advertised on the premises and in a local newspaper circulating within the vicinity of the premises. During the consultation period, Responsible Authorities and Other Persons (any individual, body or business entitled to make representations to licensing authorities) may make a representation in respect of the application.
- 4.2 Statutory consultation has therefore taken place with Responsible Authorities and interested parties in accordance with the procedures set out in the Licensing Act 2003 and associated regulations made under the Act.

5. OPTIONS

- 5.1 Whilst having reference to the information provided by the applicant and the information raised in the representation and also Cambridge City Council's Statement of Licensing Policy, the Sub-Committee's decision must be made with a view to promoting one or more of the four licensing objectives, namely:
- (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and
 - (d) the protection of children from harm.
- 5.2 Members should take such steps that they consider are necessary for the promotion of the licensing objectives. The Sub-Committee may resolve:
- (a) to grant the licence subject to the mandatory conditions and those conditions offered by the applicant which may be modified to such extent as the authority considers necessary for the promotion of the licensing objectives;

- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application.

5.3 Members must give reasons for their decision.

6. CONCLUSIONS

- 6.1 The Licensing Authority has a duty under the Licensing Act 2003 to promote the Licensing Objectives. Each objective has equal importance. In carrying out its licensing functions, the Licensing Authority must also have regard to its Statement of Licensing Policy, and the Statutory Guidance under the Licensing Act 2003 and it is bound by the Human Rights Act 1998. The Council must also fulfill its obligations under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in Cambridge.

7. IMPLICATIONS

a) Financial Implications

Cambridge City Council (the Licensing Authority) has a statutory duty to determine applications made under the Licensing Act 2003. The application fees associated with such applications are set by Central Government and are intended to cover the cost of administering the licensing regime.

There are no specific financial implications associated with this report.

(b) Staffing Implications

There are no staffing implications associated with this report.

(c) Equal Opportunities Implications

No Equality Impact Assessment has been conducted as the only consideration in reaching a decision is whether the granting of the application will undermine the statutory licensing objectives.

(d) Environmental Implications

Any environmental implications that need to be considered must specifically relate to the promotion of the statutory licensing objectives and will be contained in the representations made by the responsible authorities or interested parties.

(e) Community Safety

Cambridge Constabulary, Cambridgeshire Fire & Rescue Service, Cambridge City Council's Environmental Health Team, Cambridge City Council's Planning Service, Cambridgeshire County Council's Child Protection & Review Unit, Cambridgeshire County Council's Trading Standards Department and the Public Health Director were consulted as part of the application process and could have made representation if it was considered that the granting of the application would undermine one or more of the statutory licensing objectives.

Those making representations would have raised any relevant community safety implications.

8. BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

[Licensing Act 2003](#)

[The Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005](#)

[Guidance issued under section 182 of the Licensing Act 2003](#)

[Statement of Licensing Policy](#)

Appendix A – Application Form and Plan

Appendix B – Representations

Appendix C – Basis of application to be remitted

Appendix D – Decision of Magistrates Court to remit the application

Appendix E – Section from Statement of Licensing Policy that deals with Cumulative Impact

To inspect these documents either view the above hyperlinks or contact Luke Catchpole on extension 7818.

The author and contact officer for queries on the report is Luke Catchpole on extension 7818.

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