

**NEW FOREST DISTRICT COUNCIL
LICENSING ACT 2003**

**APPLICATION FOR A NEW PREMISES LICENCE – TESCO EXPRESS, 1
BUTLERS LANE, POULNER, RINGWOOD, BH24 1UB.**

Decision of the Licensing Sub-Committee hearing held on 4 May 2021.

1. Members of the Licensing Sub-Committee

Councillor S J Clarke (Chairman)
Councillor A Bellows
Councillor N Tungate

2. Parties and their Representatives attending the Hearing

Applicant:

Hardish Purewal – Licensing Manager Tesco
Matt Beale – Area Manager
Rupert Compton – Store Manager
Jeremy Bark BCLP Law

Objectors:

Terry Roberts
Brian Skelley (with witnesses Adam Feak and Kevin Jones)
Philip Day (representing Ozkan Bulbul, the latter was not present)

3. Other Persons attending the Hearing

Council Officers:

Christa Ferguson (Licensing Manager)

4. Officers attending to assist the Sub-Committee

Richard Davies Legal Advisor
Andy Rogers - Clerk

5. Absence of Parties

At the outset of the hearing it was noted by the Sub-Committee that a few of the parties were absent.

The following parties had not indicated whether or not they would be in attendance:

Mr and Mrs M Wiseman
Naomi Patrick
Gustav Patrick
Catherine Godtschaik
Jason Robertson
Valerie Lamb
Dot Tilley
Gabriel Perry
Noreen Stainwright

The Sub-Committee considered whether it was necessary in the public interest to adjourn the hearing or to hold the hearing in their absence. The Sub-Committee decided to proceed with the hearing in their absence and take into consideration their written representations in reaching its decision.

Mr Skelley had brought two witnesses from the Ringwood Parish Church and the Ringwood Recovery Group as is permitted by the Council's 'Procedure At Hearings Before the Licensing Sub-Committee' document. The witnesses were advised by the Chairman to ensure their comments were specific to the application. The Applicant agreed that the witnesses could address the Sub-Committee and were questioned by the Applicant during the course of the hearing. The Sub-Committee gave appropriate weight to the evidence put forward by the witnesses.

6. Decision of the Sub-Committee

The application is granted on the following terms and conditions.

Licensable activities and times permitted:

Supply of Alcohol (off the premises):

Monday to Sunday	06.00hrs to 00:00hrs
Bank Holiday Sunday	06.00hrs to 00:00hrs
New Year's Eve	06.00hrs to 00:00hrs

Provision of Late Night Refreshment

Monday to Sunday	23.00hrs to 00:00hrs
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Mandatory conditions:

As provided in the Licensing Act 2003 and Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and the Licensing Act 2003 (Mandatory Conditions) Order 2014.

Conditions consistent with the operating schedule accompanying the application:

General – all four licensing objectives

- 1) The premises shall have devised policies, procedures, systems and training to ensure that they sell alcohol in a responsible manner.

- 2) There shall be a detailed training programme which ensures that comprehensive training is provided to employees, having regard to their role and the responsibilities and such training shall be regularly reviewed and appropriate records kept.

The Prevention of Crime and Disorder

- 3) The premises shall have a digital CCTV system that covers the shop floor, including the main area which will be used for display of alcohol.
- 4) CCTV images will be retained for a minimum of 21 days.
- 5) A member of the Management team shall be on the premises while the store is open and that person will have responsibility for the premises whilst the premises are open.
- 6) CCTV warning signs shall be fitted in public places.
- 7) The CCTV system must be operating at all times whilst the premises are open for licensable activity and all equipment shall have a constant accurate time and date generation. There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to any of the responsible authorities on request, when investigating allegations of offences or criminal activity and any images recovered must be in a viewable format .
- 8) An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to responsible authorities for inspection upon request.

Public Safety

- 9) The premises licence holder shall be fully aware of their responsibilities under health and safety related legislation, and have appropriate policies and procedures in place to comply with the relevant obligations.
- 10) There shall, at all times be adequate levels of staff maintained at the premises. Such staff levels will be disclosed, on request, to the any of the responsible authorities.

The Prevention of Public Nuisance

- 11) The premises shall have a “good neighbour” policy.
- 12) Notices shall be prominently displayed at all exits, requesting customers to respect the needs of local residents and businesses and leave the area quietly.

The Protection of Children From Harm

- 13) The premises will operate a Think 25 policy. The checkouts will be programmed to prompt the checkout assistant when an alcohol product is scanned at the till, to follow the Think 25 policy.

14) All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
- Refresher/reinforcement training at intervals of no more than 6 months.
- Staff will receive appropriate training both in relation to the underlying law and the internal policy, systems and procedures. This training will be documented and repeated on a regular basis.

8. Reasons for the Decision

The Sub-Committee considered the application for a premises licence, along with the evidence, both written and oral, supplied by the Applicant and all those who had made relevant representations.

Both prior to and during the hearing it was emphasised to the Applicant and objectors that the Sub-Committee could only address the licensable activities applied for.

At the hearing the Sub-Committee carefully listened to all the evidence that was provided, and considered what action was appropriate for the promotion of the four licensing objectives:

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

The Sub-Committee, in particular, noted the absence of relevant representations from any of the Responsible Authorities.

During the course of the hearing, a number of issues were raised which were not related to the licensing objectives, and were therefore not considered by the Sub-Committee. These were as follows:

- The Applicant's commercial lease covenants.
- The petition at Appendix 6 of the pack, which the Sub-Committee did not accept as a relevant representation.
- Parking outside the premises.
- Competition with nearby businesses / saturation of the market.

The Applicant explained that the application was being made due to repeated customer requests, and as a result of Tesco reviewing its stores in the light of the COVID-19 pandemic.

The Applicant emphasised that none of the statutory Responsible Authorities had objected to the application, which they stressed was a significant point for the Sub – Committee's consideration.

The Sub-Committee noted the various measures the Applicant had in place to support their arrangements for the sale of alcohol. This included the Think 25 Policy, which involved the use of 'mystery shoppers' to ensure compliance, as well as training and auditing. The Applicant advised the Sub-Committee of the robust refusals system and procedures in place to combat potential proxy sales.

The Sub-Committee also noted the details of the CCTV system and the policy of non - tolerance of anti - social behaviour in the stores. Various measures relating to store deliveries designed to minimise local disruption were also noted.

The Sub-Committee heard that the Applicant employed 25 staff at the Poulner store, including 5 managers. It was stated that there were normally 7 to 8 staff on duty, though 2 to 3 staff would be present when the store was less busy.

With regard to concerns that a premises licence would lead to criminal activity, the Sub - Committee heard that the Applicant's store maintained a good relationship with the police and PCSO's, and any relevant incidents were reported to them.

The Sub-Committee acknowledged the concerns raised, however it was mindful that the Police, as a Responsible Authority and the key advisor on crime and disorder, had not objected to the application. Furthermore it had not heard any convincing evidence demonstrating a causal link between alcohol sales and criminal activity in the local area, even though there were other premises nearby (the Winebox) licensed for off-sales.

The Sub-Committee heard from an objector that security staff had been employed at the Tesco store and accordingly raised concerns about crime and disorder. However, the Applicant explained that regular risk assessments were carried out at the store and a security guard had at one time been employed at the store for a period of 8 weeks, in response to incidents of shoplifting, and an individual had been subsequently prosecuted.

The Sub-Committee noted that objectors were concerned about the hours applied for, for the sale of alcohol, and that this could give rise to public nuisance and crime and disorder issues. However, there was no formal evidence submitted to support this view.

In reaching their decision, the Sub - Committee were mindful of the statutory guidance under section 182 of the Licensing Act 2003 ('the Guidance'), in particular, Section 9.2, which emphasised the importance of the advice of the Responsible Authorities. In this case, the Sub - Committee acknowledged that the police should be '*...the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.*' The Sub-Committee, therefore, gave considerable weight to the fact that the police had submitted no objections to this application.

The Sub-Committee also noted Section 9.43 of the Guidance, which required evidence - based decisions, and noted that they had heard no

formal evidence in objectors' representations, to suggest that the granting of the licence would have a causal effect on criminal activity in the immediate area. In particular, it noted that the objectors' evidence precluded any link between the sale of alcohol from the nearby Winebox off licence, and any criminal activity.

The Sub-Committee also considered Section 10.15 of the Guidance, which states: '*Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.*' (Emphasis added) The Sub-Committee were not persuaded that there were sufficient grounds to refuse the licence as applied for.

The Sub-Committee was, therefore, of the view that the appropriate step for the promotion of the licensing objectives was to grant a licence in accordance with the application and conditions consistent with those proposed by the Applicant in the operating schedule, as amended by the Sub-Committee.

If there are any concerns in the future, regarding operation of the premises, the Licensing Act 2003 provides a statutory mechanism for any person to call the premises licence in for review.

In addition, concerns about criminal activity that fall outside of the responsibility of the Premises Licence Holder should be raised with the police.

Date: 10 May 2021

Licensing Sub-Committee Chairman: Cllr S J Clarke

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Decision notified to interested parties on 10 May 2021