

## LICENSING SUB-COMMITTEE – 4 MAY 2021

### APPLICATION FOR A NEW PREMISES LICENCE

#### TESCO EXPRESS, 1 BUTLERS LANE, POULNER, RINGWOOD, BH24 1UB

#### 1. INTRODUCTION

- 1.1 The purpose of this hearing is to determine an application for a new premises licence under section 17 of the Licensing Act 2003 (“the Act”) in respect of a Tesco Express store (“the store”) at Butlers Lane, Poulner, Ringwood, BH24 1UB.

#### 2. BACKGROUND INFORMATION

- 2.1 The store is situated in a small local shopping parade which has a bakery, off-licence and a fish and chip shop. Car parking is provided for customers of the shops. The site location plan is provided as **Appendix 1**. It is marked “Post Office” on the plan, as there is a Post Office counter within the store.
- 2.2 Photographs of the store and shops are provided as **Appendix 2**.
- 2.3 The store does not hold a premises licence under the Licensing Act 2003 and therefore is unable to sell alcohol or provide late night refreshment
- 2.4 The Wine Box at number 3 Butlers Lane holds a premises licence to allow the sale of alcohol for consumption off the premises (ie off-licence). This has been in place since 2013 and prior to that, the premises held an off sales licence for a number of years.

#### 3. THE APPLICATION

- 3.1 On 8 March 2021 the Licensing Authority received an application for a new premises licence from Tesco Stores Limited (‘the applicant’). The application is attached in **Appendix 3**. The accompanying plan is also provided as **Appendix 4**.
- 3.2 The application requests the following activities:-
- Sale of alcohol (for consumption off the premises)**  
06:00hrs to 00:00hrs (Monday to Sunday)
- Late Night refreshment**  
23:00hrs to 00:00hrs (Monday to Sunday)
- Opening hours of the store**  
06:00hrs to 00:00hrs (Monday to Sunday)
- 3.3 It is proposed that sales of alcohol would be made through the tills on the retail area of the sales floor and by delivery.
- 3.4 Public consultation has been carried out as required under the Act and the application has been advertised both at the site and in the local newspaper.

#### 4. REQUIREMENTS FOR A HEARING

- 4.1 The Licensing Authority must hold a hearing to determine the application where relevant representations addressing the licensing objectives are made. These objectives being:
- 1) The prevention of crime and disorder;
  - 2) Public safety;
  - 3) The prevention of public nuisance; and
  - 4) The protection of children from harm.
- 4.2 Members are referred to statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003 dated April 2018, in particular the sections on the licensing objectives and determining applications.
- <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>
- 4.3 In determining the application, the Licensing Sub-Committee must give appropriate weight to:
- 1) The steps that are appropriate to promote the licensing objectives;
  - 2) The relevant representations presented by all the parties;
  - 3) Home Office guidance;
  - 4) The Council's own Statement of Licensing Policy.

#### 5. REPRESENTATIONS RECEIVED

- 5.1 During the consultation period the Licensing Authority received representations against the application - eleven from residents, and a representation from Mr Ozkan Bulbul, the owner of the Wine Box off-licence, next to the Tesco site. These are provided as **Appendix 5**. A petition organised by an employee of the Wine Box has also been received which has been signed by its customers-**Appendix 6**.
- 5.2 A number of representations refer to matters such as the applicant's leasehold terms concerning the use of the store for the said activity, parking and whether there is a need for additional licensed premises. These fall outside the scope of the hearing or are dealt with under more specific legislative regimes.
- 5.3 The statutory guidance issued by the Home Office under section 182 of the Act states that a representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.
- 5.4 Residents have referred to the additional crime and disorder that they feel will occur by granting a premises licence, alongside the attraction of the increased availability of alcohol in the evening. The hours proposed for the sale of alcohol (06:00hrs to midnight) has raised concerns for residents in an area that is residential in nature.
- 5.5 Representees feel that the proposed licence hours will attract customers from outside the area to visit the store late at night and that this will lead to nuisance and anti-social behaviour. The staffing level of the store has also been questioned and that the sale of alcohol may lead to issues at the store for customers, residents and staff.
- 5.6 There are, of course, commercial concerns for any existing retailer when a further outlet supplying similar products proposes to operate in the vicinity. Some of the

representations echo this and as loyal customers they wish to support a local business. Regardless of the concern raised that there is already an existing off-licence in very close proximity to the Tesco store, the commercial demand for an additional licensed premises is not a matter for the Licensing Sub-Committee to consider when determining a licence application.

5.7 In supporting a transparent and robust application process, representations have been included for the Sub-Committee to consider and to decide upon the weight they wish to give to aspects of these objections, in line with legal guidance.

5.8 Section 182 statutory guidance states at 9.9 that:

*“It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.”*

5.9 In order to support the licensing objectives, the applicant has volunteered a number of conditions in section M of the application form. These would be added to any licence granted.

5.10 No representations have been received from any of the Responsible Authorities against the application.

## **6. THE HEARING**

6.1 This hearing is governed by the Licensing Act 2003 (Hearings) Regulations 2005. These Regulations provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

6.2 The applicant and those parties making representations have been invited to this hearing and have been provided with this report and the procedures to be followed at the hearing.

6.3 The applicant and those who have made relevant representations are entitled to address the Sub-Committee and to ask questions of the other party, with the consent of the Sub-Committee.

## **7. RIGHT OF APPEAL**

7.1 It should be noted that the applicant and those who have made relevant representations may appeal the decision made by the Licensing Sub-Committee to the Magistrates' Court. The appeal must be lodged with the Magistrates' Court within 21 days of the notification of the decision.

7.2 In the event of an appeal being lodged, the decision made by the Licensing Sub-Committee remains valid until any appeal is heard and the decision made by the Magistrates' Court.

## **8. CONCLUSION**

8.1 The Licensing Sub-Committee must, having regard to the application and any relevant representations take such steps as it considers appropriate for the promotion of the licensing objectives. Those steps are:

- (a) to grant the licence subject to:
  - (i) the conditions set out in the operating schedule accompanying the application modified to such extent as the Sub-Committee consider appropriate for the promotion of the licensing objectives; and
  - (ii) any condition which must be included in the licence in accordance with the Act;
- (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

## **9. RECOMMENDATION**

9.1 That the Licensing Sub-Committee determines the application.

## **10. APPENDICES**

Appendix 1- Location plan of the site  
Appendix 2- Photographs of the site  
Appendix 3- Application form and accompanying letter  
Appendix 4- Plan of the premises  
Appendix 5- Representations  
Appendix 6- Petition  
Appendix 7 – List of Parties to Hearing

### **Further information:**

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