
| | |
|---------|------------------------------------|
| Meeting | Licensing/Gambling Hearing |
| Date | 13 June 2022 |
| Present | Councillors Galvin, Melly and Wann |

1. Chair

Resolved: That Cllr Melly be elected to chair the hearing.

2. Introductions

The Chair introduced the Sub-Committee Members, the Legal Adviser and the Democratic Services officer. The CYC Licensing Manager Lesley Cooke, the Tesco Licensing Manager Hardish Purewell, and the local Tesco Store Manager Emma Martin then introduced themselves.

3. Declarations of Interest

Members were invited to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. No interests were declared.

4. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

5. Minutes

Resolved: That the minutes of the Licensing Hearing held on 23 May 2022 be approved as a correct record, to be signed by the Chair at a later date, subject to the following amendment:

- in paragraph (vii) under 'Reasons', replace '*no evidence*' with '*insufficient evidence*'.

6. **The Determination of a Section 18(3)(a) Application by Tesco Stores Ltd. for a Premises Licence in respect of 45 - 49 Gillygate, York, YO31 7EA (CYC-070642)**

Members considered an application by Tesco Stores Ltd. for a premises licence in respect of 45-49 Gillygate, York YO31 7EA.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to this Hearing:

1. The Prevention of Crime and Disorder
2. The Prevention of Public Nuisance

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form.
2. The papers before it, including the additional papers published in the Agenda Supplement and the written representations.
3. The Licensing Manager's report, and her comments at the Hearing.

The Licensing Manager outlined the report and the annexes, correcting two errors in paragraph 5 of the report and confirming that the licensable activities applied for included the supply of alcohol **off** the premises, and late night refreshment. She noted that the premises were not in the cumulative impact area and confirmed that the Applicant had carried out the consultation process correctly. She highlighted the additional conditions agreed by the Applicant with North Yorkshire Police, noting that the Police had subsequently withdrawn their objections. She drew attention to the two representations received from local residents, as set out in Annex 3. Finally, she advised the Sub Committee of the options open to them in determining the application.

4. The representations made by Hardish Purewal, Licensing Manager for Tesco, on behalf of Tesco Stores Limited (the Applicant).

Ms Purewal stated that this was a new application for premises due to open in October 2022. The premises would operate as a smaller convenience format or 'Express' store, with a range of approximately 5,000 lines targeted to the area. Alcohol was just a small, though important, part of this range. The Store Manager, Emma Martin, had a wealth of experience, having been with Tesco for 15 years and a store manager in York for 6 years, currently at Goodramgate. The store would employ about 20 colleagues and 3 shift managers and would provide roles for people in the local community, with a mixture of experienced and new staff. The recruitment process would take place 8 weeks before opening. There would be a range of carefully selected lines in store and alcohol miniatures would not be sold except in gift packs. Tesco took pride in being a good neighbour in the community and had awarded over £172,000 to groups and charities in the local area.

Ms Purewal went on to say that Tesco had a good relationship with the statutory authorities and she herself chaired a Retail Alcohol Standards group that advised on best practice across the industry and offered free guidance to smaller shops. Emma Martin was involved in the Pubwatch scheme, meeting with the local police and PCSOs; there had also been talk of a Retailwatch scheme in which she would be happy to take part. The training offered by Tesco was endorsed by the BII; training on alcohol sales and security was provided to staff twice a year as well as on joining. This included training on proxy sales and how to spot someone who was drunk. Conflict training was also provided on how to manage people who were drunk. Tesco operated a strong 'Think 25' policy and a 'you say no, we say no' rule, whereby a manager would not over-rule a decision by a member of staff to refuse a sale. CCTV Panic alarms, tags on high value items, bodycams, and headsets for quick communications between teams were all part of the security provided in stores. Central support was also provided, and the shop would be tested 4 times per year by an external audit

company to ensure it was following Think 25. Promotions were all set nationally. The application for late night refreshments was needed for the Costa coffee machine, for which payment was taken at the checkout.

With regard to the representations, Ms Purewal confirmed that the Applicant was happy to work with local community organisations to nip any problems in the bud, and that they already co-operated with police and rangers in the city in refusing alcohol to people involved in anti-social behaviour. The police were working on a multi-agency plan and the Applicant would fit in with that. Under the council's policy and the S182 guidance, permission was generally granted for shops to sell alcohol during their operating hours unless there was a reason not to; in this case there was no evidence to suggest any reason to refuse permission. The police had agreed conditions and the Applicant would work with them on any new issues that arose. The closing times of other premises were not relevant, as each application must be considered on its own merits.

In response to a question from the Chair, Ms Purewal said she was not aware of the recent decision to introduce a Public Space Protection Order in the area covering Gillygate, but that Tesco already operated a number of premises in other PSPO areas and would be happy to work with police on this.

Ms Purewal was then given to opportunity to sum up. She referred to the points already made in her submission, which she hoped had demonstrated that Tesco was an excellent operator with all the necessary policies and procedures in place, and stated that there was no evidence to suggest that the application should not be granted.

The Chair sought clarification with regard to the condition in the operating schedule relating to CCTV. Ms Purewal confirmed that the Applicant would be happy for this to include a requirement to make CCTV footage available to the responsible authorities on request.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application

demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

- Option 1: Grant the licence in the terms applied for. This option was **rejected**.
- Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was **approved**.
- Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was **rejected**.
- Option 4: Refuse to specify a person on the licence as premises supervisor. This option was **rejected**.
- Option 5: Reject the application. This option was **rejected**.

Resolved: That Option 2 be approved and the licence be granted with modified / additional conditions imposed by the Sub-Committee, as set out below:

| Activity | Timings |
|--------------------------------------|-----------------------------------|
| Supply of alcohol – off the premises | Monday to Sunday 06:00 – midnight |
| Late night refreshment | Monday to Sunday 23:00 – midnight |
| Opening hours | Monday to Sunday 06:00 – midnight |

The additional/modified conditions are as follows:

- (i) There shall be no sale of single cans of beer, lager or cider from the premises and no sales of single bottles of beer,

lager or cider in vessels of less than 500ml with the exception of premium craft products.

(ii) There will be no display of alcohol within 5 metres of the store entrance.

(iii) The premises licence holder or designated premises supervisor is responsible for risk assessing the need for door staff at the premises. Where engaged, door staff shall be licensed by the Security Industry Authority.

(iv) Viewing of CCTV images shall be made available immediately upon request of a Police officer or authorised officer of the Licensing Authority throughout the entire 31 day retention period [referred to in the CCTV condition in the operating schedule submitted by the Applicant].

No conditions have been removed from the operating schedule submitted by the Applicant.

Reasons: (i) The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.

(ii) The Sub-Committee notes the local residents' concerns that the application would lead to crime and disorder and public nuisance and in particular that there has been a problem with street drinkers in the area.

(iii) They also note the conditions offered in the operating schedule to promote the licensing objectives, that there had been no objection to the application from the Responsible Authorities and that the Police had agreed conditions with the applicant to address potential issues relating to crime and disorder and anti- social behaviour.

(iv) The Sub-Committee considers that it has received sufficient assurances from the applicant in order to have a high level of confidence that the premises will be operated responsibly and that it can, with the imposition of suitable conditions,

operate without adding to or causing alcohol related problems in the area.

(v) The Sub-Committee considers that the grant of the application with the above mandatory and additional conditions will not undermine the promotion of the licensing objectives.

Cllr R Melly, Chair

[The meeting started at 10.00 am and finished at 10.40 am].