
Licensing Act 2003 Sub Committee

13 June 2022

Report of the Director of Environment, Transport & Planning

Section 18(3) (a) Application for a premises licence for Tesco, 45 – 49 Gillygate, York, YO31 7EA

Summary

1. This report seeks Members' determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC - 070642
3. Name of applicant: Tesco Stores Ltd
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application:

The proposal is to allow for the provision of the following activities at a new Tesco Store at 45 – 49 Gillygate:

Proposed Activity	Timings
Supply of Alcohol – on the premises	Mon – Sun 06:00 – 00:00
Opening hours	Mon – Sun 06:00 – 00:00

Background

6. A copy of the application can be found at Annex 1, including a plan(s) of the premises.
7. The premises is described in the application as a retail premises (supermarket) selling a range of goods and services. This includes the sale of alcohol for consumption off the premises.
9. This premises is currently licensed and ran as a fish and chip restaurant licensed for the sale of alcohol for consumption on the

premises and ancillary to a table meal. The licence was suspended in March 2022 due to non-payment of the required annual fee. The new operator has advised they do not wish to transfer the current licence.

Promotion of Licensing Objectives

10. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

11. General

- Tesco is a large national operator with a range of head office and local support. The company has devised policies, procedures, systems and training to ensure that they sell alcohol in a responsible manner.
- There is a detailed programme which ensures that comprehensive training is provided to employees having regard to their role and the responsibilities and such training is regularly reviewed, and records kept.

12. The Prevention of Crime and Disorder

- We will have a digital CCTV system that covers the premises, including the main area which will be used for display of alcohol. Images will be retained for 31 days.
- A member of the management team will be on the premises all the times the store is open. This colleague will have responsibility for the premises and will be the initial point of contact for any issues that may arise.

13. Public Safety

- The premises licence holder is fully aware of its responsibilities under a range of health and safety related legislation and has policies and procedures in place to be confident of complying with the relevant obligations which arise.

14. The Prevention of Public Nuisance

- The company has a “good neighbour” ethos which seeks to ensure that the premises plays an active part in the local community

15. The Protection of Children from Harm

- The premises will operate a Think 25 policy. The checkouts will be programmed to prompt the customer assistant when an alcohol product is scanned at the checkout to follow the Think 25 policy.
- All colleagues will receive training in relation to the underlying law and Tesco policy, systems, and procedures. This training will be documented, and refresher training will be provided on a regular basis.

Special Policy Consideration

16. This premises is not located within the cumulative impact area.

Consultation

17. Consultation was carried out by the applicant in accordance with s13, and s17 (5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.
18. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

19. North Yorkshire Police made representation on the prevention of crime and disorder, however they have mediated with the applicant who has agreed to amend their operating schedule and have added several conditions. The agreed conditions can be found at Annex 2. Therefore North Yorkshire Police have withdrawn their representation.

Summary of Representations made by Other Parties

20. There have been 2 relevant representations received from other persons. The list of representors is attached at Annex 3.
21. The representations are predominantly based on the grounds of the prevention of crime and disorder, and prevention of public nuisance

objectives. They state that these objectives will be undermined if the application is granted.

22. A copy of all the representations are attached at Annex 4.
23. A map showing the general area around the venue is attached at Annex 5.
24. The mandatory conditions that will be attached to this licence if granted (if they apply) can be found at Annex 6. The Legislation and Policy considerations can be found at Annex 7.

Options

25. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
26. Option 1: Grant the licence in the terms applied for.
27. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
28. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
29. Option 4: Refuse to specify a person on the licence as premises supervisor.
30. Option 5: Reject the application.

Analysis

31. The following could be the result of any decision made this Sub Committee:-
32. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
33. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
35. Option 4: This decision could be appealed at Magistrates Court by the applicant.

36. Option 5: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

37. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
38. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

Implications

39.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

40. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They

are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.

41. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

42. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

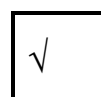
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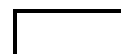
**Report
Approved**



Date
13.05.22

Specialist Implications Officer(s)
Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form, plans & operating schedule
- Annex 2** - Agreed conditions with North Yorkshire Police
- Annex 3** - List of other persons (CONFIDENTIAL)
- Annex 4** - Other persons representations
- Annex 5** - Map
- Annex 6** - Mandatory conditions
- Annex 7** - Legislation and policy considerations