

**Minutes of a Meeting of the Licensing
Sub Committee held at Council
Chamber, Surrey Heath House on 28
November 2014**

+ Cllr Bill Chapman
+ Cllr Ian Sams

+ Cllr Pat Tedder

+ Present

Legal Adviser to the Sub-
Committee

Mrs Laura James (Legal Representative
for Surrey Heath Borough Council as
Licensing Authority)
Mrs Jessica Harris-Hooton (observing)

Democratic Services Manager

Mrs Jane Sherman

Surrey Heath Borough Council as
Licensing Authority

Mr Derek Seekings (Licensing Officer)
Mrs Paula Barnshaw (Licensing
Administrative Officer)

Responsible Authority:
Surrey Police

Mr Rab Carney

Applicant

Mr J Bark
Mr G Bartley

Other Persons:

None

9/LS Election of Chairman

**RESOLVED, that Councillor Bill Chapman be elected as Chairman for
the meeting.**

10/LS Licensing Act 2003

The Sub-Committee considered an application for a new Premises Licence
relating to Tesco, 89-91 Guildford Road, Lightwater.

The Licensing Officer presented his report to the Sub-Committee and notified
representatives of the parties who had a right to speak at the meeting. He referred
Members to the Licensing Objectives and noted that relevant objections had been
submitted.

All relevant parties present introduced themselves and stated their reason for
attending the Sub-Committee.

The Licensing Officer reported that the "Other Persons" had contended that the
carrying on of licensable activities at the premises could lead to the following
licensing objectives being seriously undermined:

- (i) The prevention of crime and disorder;
- (ii) Protection of Public Safety;
- (iii) Prevention of Public Nuisance; and
- (iv) Protection of children from harm.

The Licensing Officer reported that the application was for the supply of alcohol off the premises, from 0600 to 2300 daily. The provision of late night refreshment was not included in the application.

Representations had been submitted by Surrey Police. No other Responsible Authorities had submitted representations.

Mr Rab Carney informed the Sub Committee that Surrey Police had made representations as it had been considered that additional conditions were required. These conditions had now been agreed with the applicant and, as a result, the Police had withdrawn their representation.

Mr Bark, on behalf of the applicant addressed the Sub Committee and explained Tesco's ethos and it how operated. Principally the premises were a convenience store and it was estimated that the sale of alcohol would represent 7% to 9% of total sales. He also described the operation of Tesco's "Think 25 Policy" and detailed training conducted for all staff in relation to the sale of age related products.

He referred to the representations made by the Other Persons and noted that need did not have to be taken into account and that there was no cumulative impact policy in place in Lightwater. There was no evidence that additional litter would result if the licence was granted. He reminded Members that the Police had no concerns in relation to crime and disorder and that traffic generation was not a licensing consideration. He also emphasised that residents' fears were different to good evidence.

The Sub Committee adjourned from 10.45 until 11.25.

Following deliberations on the application, the Legal Advisor reported that she had advised the Sub-Committee in relation to the ethos of the Licensing Act and the written and oral evidence presented at the hearing.

Members recognised that the Licensing Act imposed a light touch approach and encouraged them to allow premises to trade unless there was a reason not to. The Act allowed for review if, at a later stage, it was suggested that any action had resulted in the Licensing Objectives not being met.

The Sub-Committee concluded that the premises licence should be granted with the additional conditions as agreed with Surrey Police, subject to minor amendments.

RESOLVED, that the Premises Licence for Tesco, 89-91 Guildford Road, Lightwater, be granted for the hours of 0600 to 2300 daily, subject to the conditions set out in the Decision Notice at Annex A.

Chairman

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LICENSING COMMITTEE – 28th NOVEMBER, 2014

The Application

This is an application by Tesco Stores Ltd for a new premises licence at Guildford Road, Lightwater, Surrey, GU18 5SB. Representations have been received from “any other persons”, namely two local residents, a business association and a responsible authority, being the Police.

At the hearing of the application in attendance were:

Mr Rab Carnie (Police Licensing Officer)

Mr Derek Seekings (Surrey Heath Licensing Officer)

Mrs Paula Barnshaw (Surrey Heath Licensing Administrator)

For the Applicant:

Mr Jeremy Bark (Berwin Leighton Paisner)

Mr Greg Bartley (Tesco Licensing Manager)

Evidence before the Sub-Committee

Representations have been received from the Police, two residents and the Lightwater Business Association. Neither the residents nor a representative of the Association were present at the hearing to expand on their written representations and they have been accepted by the Committee as read. Oral representations were made by Mr Carnie on behalf of Surrey Police. He stated that on receipt of the application, the Police were initially concerned that the operating schedule did not adequately address the crime and disorder licensing objective. He has confirmed that the Applicant had been in much discussion with the Police and new proposed conditions had been agreed. If the Committee were minded to accept the conditions, the Police representations would be satisfied and subsequently withdrawn.

Mr Bark addressed the concerns raised by ‘other persons’ on behalf of the Applicant. He stated that the issue of whether the premises was ‘needed’ is not a relevant consideration and as there is no cumulative impact policy in Lightwater. Mr Bark also contended that there is no evidence to suggest that granting the licence will increase litter within the village nor was there any evidence that any other Tesco store within Surrey Heath has reported this as a problem. Mr Bark said that the Applicant will place bins outside of the premises and will remove packaging for goods by lorry regularly

He also stated there were no crime and disorder issues raised by the Police and no issues in Lightwater with other off-sales premises. He noted the issue of traffic is not for the licensing committee to consider, this would have been a planning consideration prior to the grant of planning permission. Mr Bark referred to the Licensing Act and the presumption that licences should be granted unless there are reasons to refuse. He also referred to the case of Thwaite’s and summarised that whilst residents may hold genuine fear of a premises opening within their locality, fears do not equate to good evidence. Mr Bark also referenced the section 182 statutory guidance,

specifically paragraph 10.15 which states that stores should be able to provide alcohol in line with their opening times unless there is good reason, based on the licensing objectives for restricting the hours.

The Decision

The Licensing Act encourages us to view our powers and responsibilities in the light of the community as a whole. The regime under the Act has a light touch approach to regulation and we carry out functions with a view to promoting the licensing objectives, having regard to the statutory guidance and to the Statement of Licensing Policy.

If the sub-committee is minded to attach any conditions to the proposed licence, these must be appropriate to promote one or more licensing objectives. They must be proportionate in that they are tailored to the activities taking place, the size, location, type and characteristics of the business and do not repeat those which duplicate other statutory provisions.

We will consider the licensing objectives in the following order:

Prevention of Crime and Disorder

We note the concerns of the residents and business association regarding crime and disorder but following the withdrawal of the representations of the Police, the Committee are satisfied that no evidence has been provided that this objective will be undermined. The Police and the Applicant have agreed conditions in relation to the installation of CCTV at the premise which the Committee feel are adequate to address any concerns and enforceable subject to minor amendment. We are also mindful that any Licence granted can be reviewed under the Act.

The Protection of children from harm

We have had regard to the Council's Statement of Licensing Policy which states that the Council will have particular regard to the safety of children when considering licence applications. It is a mandatory conditions that all premises must have an age verification policy. The applicant operates a 'Think 25' policy and has numerous procedures and checks in place which the Committee believe are more than satisfactory to meet the requirements of the Statement of Licensing Policy and legislation.

Public Safety

There is no evidence before us upon which we can consider that this objective is not likely to be promoted.

Prevention of public nuisance

No objection was raised by Environmental Health as a statutory responsible authority with regards to public nuisance. Whilst the written concerns of 'other persons' have been noted, there is no evidence before us that the premises will create the disturbances and littering they refer to. The applicant confirmed that they will provide additional rubbish bins outside of the premises and that cleaners are employed to clean both inside and outside the premises.

We therefore grant the Licence subject to the following conditions:

Conditions

We have had regard to whether conditions are appropriate in accordance with the guidance and the licensing policy and note those offered by the applicants in their operating schedule and those agreed between the applicant and the Police. In summary, we find it is appropriate that the following conditions be added to the licence in addition to those proposed by the operating schedule:

- The premises shall be equipped with CCTV system that shall comply with the following criteria:
 - The system shall be maintained in good working order and will:
 - Be of a quality which is satisfactory to the Police and produce colour images in all lighting conditions;
 - Indicate the correct time and date
 - Be retained for 28 days
 - Ensure sufficient staff will be trained in use the CCTV system
 - Copies of the recordings shall be provided in a format which is agreeable to the Police, and which can be viewed on readily available equipment without the need for specialist software
 - The system will record during all hours which the premise is open to the public and will capture images on entry and egress to the premises.
 - The system shall cover the main area of the premises where alcohol is displayed.
 - Original images will be made available for inspection immediately upon request to Officers of Responsible Authorities on the premises.
 - The Data Controller must be able to demonstrate, to the satisfaction of the Police, that they have devised a recording management system that prevents recordings being tampered with, stolen, misplaced or failure to record. Recording equipment shall be housed in a secure room/ cabinet where access and operation is limited to authorised persons.
 - Unauthorised persons should not be allowed access to the system or view personal data (as it could contravene the Data Protection Act or jeopardise any criminal investigation.)
 - The premises shall adhere to the legal requirements of displaying signage indicating that CCTV is in operation in the premises.
- A documented Challenge 25 Scheme will be operated at the premises
 - A Challenge 25 scheme shall be actively promoted and advertised at the premises
 - Training will be provided to all staff so that all staff are aware that they must request photographic ID from any person purchasing alcohol, who appears to be under 25 years of age, to prove that they are 18 years of age or over. Failure to supply such identification will result in no sale or supply of alcohol to that person.
 - Examples of Photographic ID includes driving licence, passport and Pass Hologram ID cards

The Licensing officer is asked to word the conditions so as to be readily enforceable and those in the operating schedule which relate to CCTV shall be removed so as not to be duplicated with the conditions as above.