

**LICENSING SUBCOMMITTEE
(2003 ACT)**19 January 2009
10am – 1.10pm***APPROVED BY MEMBERS - DRAFT TO BE SIGNED*****Present:** Councillors Rosenstiel (Chair), Liddle and Wright**09/lic/9 Declarations of Interest**

Members declared the following personal interests:

Councillor Rosenstiel – Member of Campaign for Real Ale
- Frequent shopper at Tesco**09/lic/10 Procedure to be Followed**

The procedure for hearings of the subcommittee set out on the agenda was noted.

**09/lic/11 Application for a new Premises Licence: Tesco Stores Ltd,
Clifton Road, Cambridge****Present for this application:****For the Applicant:** Gary Falconer (Store Manager); Kathy Abbess (Area Manager) and Jeremy Bark (Solicitor)**Outside Body:** PC Pete Sinclair**Interested Parties:** Tariq Sadiq (local resident); Madeline Cassidy (local resident); and Ugur Adis (local shopkeeper).**The hearing:** The Assistant Licensing Officer presented her report and outlined the application being made. She stated that the application was for the sale and supply of alcohol during Tesco's opening hours of 6am to 11pm. No previous license had been granted under the Licensing Act 2003 for the premises. She stated that as the premises fell within a cumulative impact zone, granting the application could have a negative impact on the licensing objectives. Representations had been received from interested parties. She stated that if the license were granted, it would be subject to conditions.

The solicitor, Jeremy Bark, submitted that Tesco were happy to pull back its opening hours by an hour so that it opened 6am to 10pm – the licensing hours would also be in line with this. He confirmed that Tesco were happy with the six conditions attached by the police as per paragraph 4 of the

committee report, and of the attachment of the following words (underlined) to condition 3:

'...Images will be retained for 31 days and made available to police or an authorised person from a responsible authority under LA 2003 upon request.'

The solicitor stated that Tesco would not provide a negative contribution to the cumulative impact area and wider area around the application premises as off licences, general stores and night time economy were contributors, not convenience stores and supermarkets - Cllr Rosenstiel confirmed that as a cumulative impact zone, the nature of the area had to be taken into account.

The solicitor submitted that the sale of alcohol generated to around 7% - 8% from the overall sale of a Tesco Express, and that its main purpose was to cater for the local area and community. The solicitor stated that people tended to purchase alcohol with food at convenience stores, and not by itself. Tesco liked to think of itself as a good responsible company and an active member of the community.

Tesco started to implement the 'Think 21' policy before companies were asked to enforce it. All Tesco tills operated the policy and thereby constantly encouraged and reinforced the message upon its staff. It introduced the 'Think 21' DVD, and won the award from BII. He stated the 'Think 21' message was displayed in staff areas and by the alcohol display unit. It was reinforced during training, and also during quarterly legal refresher training courses. He mentioned that staff were continually tested in this area via the following ways:

- Area Manager – sent underage people to Tesco stores in order to assess whether the 'Think 21' policy was actively being implemented;
- Mystery shoppers were being implemented every quarter;
- Internal Tesco manager was based in Cambridge.

The solicitor assured that there would be nine CCTV cameras in store, and that there would not be any additional deliveries of alcohol made to the premises. He stated that it had weekly contact with the Police Authority and that Home Office statistics indicated that 50% - 70% of alcohol found on children came from the home, supplied by parents.

The solicitor mentioned the Tesco at Kings Hedges limited the number of children it allowed into the store at any one time. Around 25% - 30% of Tescos had door security. The solicitor assured that staff had been trained to refuse to sell alcohol, or ban the customer or call the police, if they were in any doubt.

The Members of the Sub-Committee asked questions of clarification of the applicant:

- Cllr Wright raised the question of what exactly the role of the team leader would be, and requested further explanation of the chain of responsibility?

A: The solicitor explained that there would be a shift management from the team leader to the manager. Therefore members of staff would always have a point of call.

- Cllr Rosenstiel asked what would happen in the event of a manager being unable to work at short notice?

A: The solicitor replied that this would be allowed in exceptional circumstances. However, they would always aim to have 2 managers in order that one could be used as a fall back.

- Cllr Liddle asked how security would be able to control the people outside of the store as they possessed no legal powers?

A: They would hope the presence of security would cause a deterrence. In the worst case, the police would be called.

- Cllr Rosenstiel asked that as the store was located within a cumulative impact zone, how would Tesco operate with proxy purchases?

A: Would provide training to staff, liase with schools and get the police involved.

- Cllr Liddle expressed her concerns that Tesco would sell alcohol at a much cheaper and discounted rate than other local amenities.

A: The solicitor replied that Tesco's aim was to make money from selling alcohol. The key thing behind promotions was operating it wisely. Tesco's ethos was to try to give customers value for their money with all their products and to sell it reasonably and responsibly.

- Cllr Liddle stated that Tesco off sales were considerably cheaper than anyone else.

A: The solicitor assured that Tesco would hopefully liase with the police in order to prevent any problems arising. The solicitor stated the fact that it had agreed not to sell any alcohol after 10pm in order to avoid another market, namely the night economy.

PC Sinclair expressed his satisfaction that Tesco would not be targeting the night time economy. He stated that he was very pleased to hear that Tesco had pulled back its hours. He stated that alcohol was not allowed to be

consumed on the concrete area and security would have powers to uphold this. The grass areas did not however fall within the prohibited area, therefore it meant that people could potentially drink there. He stated that Tesco were a very responsible retail and that they very rarely handled issues with proxy purchasing. He stated that measures were set in place.

Members of the Sub-Committee asked questions of clarification of the residents:

- Cllr Rosenstiel asked that if a manager were to be ill one day, would there be satisfied management in place?

A: The solicitor assured that a management person, such as the store manger, would always be there.

- One of the objectors (Tariq Sadiq) asked for two points of clarification namely how many managers there would be in the store?

A: The solicitor confirmed that four people would be present as managers at all times at the store - the store manager, the deputy manager and two other managers. There would also be step up team leaders.

- The objector also asked why no representations had been published publicly from interested parties in the committee report?

A: The Committee Manager stated it was published as confidential papers due to data protection reasons, as it disclosed information regarding names, addresses and contact details.

The objectors explained the basis of their objections to granting the licence: One of the objectors (Madeline Cassidy) argued the following:

- Granting Tesco the licence application would not help the objective of preventing crime and disorder as there was a high level of crime in the area, as confirmed on the Council's website.
- Public safety would be put at risk – the objector had experienced problems with youths during the day time.
- She stated that it did not prevent proxy purchasing from taking place.
- She stated that there were already many measures in place for off licences such as CCTV and the manager refusal book and was therefore not solely operated by Tesco.
- She expressed her disappointment at the police for supporting the licensing application and noted that Tesco were very irresponsible for selling alcohol in a cumulative impact area.
- She noted the huge advertising campaigns Tesco carry out to promote to cheap alcohol, stating it sold a bottle of cider cheaper than a bottle of water that was not under a promotional price - No other store in the area sold alcohol for that price.

- Young adults were capable of committing alcohol related violence. Many retailers operated the 'Challenge 21' policy. Some stores have even opted not to sell alcohol during college hours, but Tesco had not offered to do this, even though it was based within a prominent area of young students.
- Cambridge was noted for its travelling community, which visited the area regularly and was often involved in drink related crime - there was already a presence of late night crime in the area.
- With the high population of international schools, overseas students had a different attitude to drinking during the day, for example having vodka with lunch.
- Likely to see an increase in knife crime and theft because of the credit crunch.
- Additional security measures would help Tesco but not the council's objections. The measures would not stop adding to the level of crime and disorder in the area. Granting Tesco the licence would be adding fuel to the fire.

Another objector (Tariq Sadiq) added the following:

- Drink related violence or criminal damage and crimes were well known in the area.
- There were people who bought alcohol and became drunk before they got into clubs and pubs.
- They would be steadily drinking throughout the day within a cumulative impact area.
- You could not have control over what people did once they left the area.
- There was nothing to stop proxy purchasing. Neighbours had already expressed problems over children drinking cider by their house at lunch time.
- Main concern was over the proximity of the colleges and young people having increased access and availability to cheap alcohol.

Members of the Sub-Committee asked questions of clarification:

- Councillor Rosenstiel asked whether additional alcohol would fuel the existent problems?

A: It was noted that there were undercurrent problems with the night time economy, but there were also issues on Sundays. The solicitor noted that the local stores did not cause any problems. He stated that Tesco would have security 5 days a week. If it required more, then it would be reassessed.

One of the objectors (Tariq Sadiq) replied that none of the other off licences fell within the cumulative impact zone.

- Cllr Rosenstiel raised the point whether an extra store would have a negative impact.

- Cllr Liddle mentioned the burden of proof had changed as the Tesco store was located within a cumulative impact zone.
- Cllr Rosenstiel noted that reference to section 13.34 of the Licensing Act 2003 made earlier by the solicitor meant that a cumulative impact zone was based on a night time economy. Therefore Tesco's proposed opening hours suggested that it would not be likely to add to the existing cumulative impact.
One of the objectors stated that it depended upon an individual's definition of night time economy.

- The question was raised as to whether Tesco would contribute to the cumulative impact?

A: The solicitor answered that Tesco could target or react to pre-loading if, for example, there was an event going on.

Members of the Sub-Committee retired at 11.55am to consider the application and returned at 1.00pm with a verdict.

The Decision: In reaching the decision on the application, the Sub-Committee considered material presented orally and in writing, the representations made by the Applicant and the Interested Parties, the Council's Statement of Licensing Policy and the statutory guidance under the Licensing Act 2003. The list of the interested parties who spoke at the meeting appears in the minutes of the meeting.

In this case, the Sub-Committee had to balance the interests of the applicant with those of the wider community. The decision was reached on its individual merits, bearing in mind that these premises are in a mixed commercial and residential area.

It was decided:

1. That the special policy relating to cumulative impact in relation to the Cambridge Leisure site applies to all licensed premises within that defined area.
2. That the application, together with its operating schedule, is not likely to add to the existing cumulative impact, taking into account the representations made to the Sub Committee by the police.

The Sub Committee granted the application as amended and subject to the conditions presented at the start of the meeting and agreed by the applicant and the police and subject to the amendment suggested by the Sub Committee for the following reason :

That the applicant and the Police had demonstrated to their satisfaction that, subject to the agreed conditions, the application will not add materially to the existing cumulative impact in the area.

The terms of the licence and the agreed conditions are:

Sale/supply of alcohol (off the premises)

Mon-Sun 06.00 to 22.00

Hours premises are open

Mon- Sun 06.00 to 22.00

Conditions agreed between the applicant and the police, as amended:

1. A suitably trained person will have responsibility for the management of the stores throughout the time that premises are open for the sale of alcohol;
2. Tesco shall provide a SIA registered security officer on Friday and Saturday evenings from 19.00 hours until close whose responsibility will be for the prevention of crime and disorder, the prevention of proxy sales taking place and to prevent the immediate area outside the store from being used for the consumption of alcohol purchased from the store;
3. A digital CCTV system will be fitted and maintained in working order and will record images during trading hours. Images will be retained for 31 days and made available to police or an authorised person from a responsible authority under Licensing Act 2003 upon request;
4. The store will join Cambridge Business Against Crime (Cambac) and operate a Cambac radio. This will be used by a responsible member of staff or security officer;
5. Clear signage relating to the sale of alcohol and Challenge 21 or Think 21 will be displayed in the section of the store where alcohol is displayed and at tills. There will be a voluntary agreement to only accept identity cards with the "Pass" accreditation; passports of photo ID driving licences; any National identity card as ruled by any British court as a bona-fide recognised form of identification or any future identification card as approved by central government; as bona-fide recognised forms of identification.
6. Clear signage relating to the offence of customers proxy purchasing on behalf of under 18s will be displayed in the section of the store where alcohol is displayed and at the tills.

With effect from: 19 January 2009

The Meeting concluded at 1.10pm

Chair