

**Minutes of the Licensing Sub-Committee
28 April 2021**

Present:

Councillor R.W. Sider BEM (Chairman)
Councillor S.A. Dunn and A.C. Harman

In attendance for the applicant:

Ms Hardish Purewal (licensing manager for the Applicant) and Ms Sophie Fulgate (store manager for the Applicant).

Interested Parties in attendance:

None.

Responsible Authorities in attendance:

None.

In attendance for the local licensing authority:

Ms. Karen Hollands, Temporary Licensing Enforcement Officer, Spelthorne Borough Council.

Mrs. Lucy Catlyn, Principal Licensing Officer, Spelthorne Borough Council.

117/21 Disclosures of Interest

There were none.

118/21 To consider an application for a Premises Licence at Tesco, 47/48 Elmsleigh Centre, Staines upon Thames, TW18 4QB, in the light of representations

The Chairman introduced members and officers present and welcomed everyone to the meeting.

The Chairman asked the applicant to introduce themselves. He then explained the procedure to be followed at the hearing.

The Council's Temporary Licensing Enforcement Officer summarised the application which was set out in full in the report of the Deputy Chief Executive.

The hearing continued in accordance with the procedure.

Having heard the evidence presented, the Sub-Committee retired to consider and determine the application, having regard to the licensing objectives on prevention of crime and disorder and prevention of public nuisance.

Upon reconvening, the Chairman gave the Sub-Committee's summary decision.

The full decision with reasons would be notified to the applicant and other parties within five working days of the hearing.

Resolved that the application for a Premises Licence at Tesco, 47/48 Elmsleigh Centre, Staines upon Thames, be granted subject to conditions, as set out in full in the attached Decision Notice.

Please reply to:

Contact: Michelle Beaumont
Service: Committee Services
Direct line: 01784 446337
E-mail: m.beaumont@spelthorne.gov.uk
Our ref: MB/LIC
Date: 4 May 2021

SPELTHORNE BOROUGH COUNCIL

DECISION NOTICE

In accordance with the LICENSING ACT 2003 s.23

Date of Licensing Sub-Committee: 28 April 2021

Applicant: Tesco Stores Ltd

Premises: 47/48 Elmsleigh Centre
Staines-Upon-Thames,
TW18 4QB

REASON(S) FOR HEARING: Relevant representation received from other persons concerning Prevention of Crime and Disorder and Prevention of Public Nuisance:-

- Potential for increase in anti-social behaviour
- Potential for increase in public nuisance

DECISION

Granted

With effect from 28 April 2021

REASONS FOR DECISION

1. The application is for a new premises licence at 47/48 Elmsleigh Centre, Staines-upon-Thames, TW18 4QB.

Attendance

2. Two people attended the Sub-Committee hearing to make representations. They are:
 - Ms Hardish Purewal, licensing manager for the Applicant; and
 - Ms Sophie Fulgate, store manager for the Applicant.

Evidence

3. The Licensing Sub-Committee considered all of the relevant evidence made available to it at the hearing including:
 - The report of Karen Hollands, Temporary Licensing Enforcement Officer, outlining the matter to be considered.
 - Written representations from other persons.
 - Oral representations from Ms Hardish Purewal and Ms Sophie Fulgate on behalf of the Applicant.

In addition the following documents were circulated prior to the hearing:

- Location plan of the premises
 - Applicant's application form
 - Plan of the premises
 - Conditions agreed with the Licensing Authority
4. In considering all of this evidence, the Sub-Committee has taken into account the Regulations and National Guidance under the Licensing Act 2003 and Spelthorne Borough Council's Statement of Licensing Policy.

Application

5. An application for a new Premises Licence at 47/48 Elmsleigh Centre, Staines-upon-Thames, TW18 4QB, was received from the Applicant on 8 March 2021. The application is for a Tesco Express convenience store to permit late night refreshment from 23:00 to 00:00 Monday to Sunday and the supply of alcohol from 06:00 to 00:00 Monday to Sunday.

6. The public was consulted in accordance with the Licensing Act 2003. The required notices were displayed and adverts published in line with the regulations under the Licensing Act 2003.
7. The application generated one representation from other persons. No representations were received from any of the responsible authorities.

EVIDENCE

Background

8. 47/48 Elmsleigh Centre, Staines-upon-Thames, TW18 4QB are shop units located in Staines town centre. The shop units were previously occupied by Accessorize and Monsoon.
9. The application is to permit the provision of late night refreshment from 23:00 to 00:00 Monday to Sunday and the supply of alcohol from 06:00 to 00:00 Monday to Sunday in order to align with the Applicant's opening hours.
10. Since the application was submitted, the licensing authority and Applicant have agreed the following replacement conditions for the premises licence should it be granted:
 1. All staff shall be trained in respect of the law relating to the sale of alcohol, acceptable forms of ID and Challenge 25. Written or digital records to be kept to document that all staff have had training. All staff to receive refresher training on all of these aspects twice a year. Training documentation to be made available to Responsible Authorities on request.
 2. The premises shall install and maintain a comprehensive CCTV system as per the following minimum requirements:
 - a) Cameras will be sited on the alcohol aisle and the entrance and exit to the premises.
 - b) Cameras on the entrance will capture full frame shots of the heads and shoulders.
 - c) The CCTV system to provide good quality images in colour and operate under existing light levels during licensable activities.
 - d) The CCTV recording device to be located in a secure area or locked cabinet.

e) Be regularly maintained to ensure continuous quality of image capture retention.

f) Have signage displayed in the customer area to advise that CCTV is in operation.

g) Digital images will be kept for a maximum of 31 days

h) Police to have access to images at any reasonable time.

i) Copies of CCTV footage will be made available to Police on request.

3. The premises will operate an age verification scheme, such as Challenge 25, in relation to the sale of alcohol. Posters shall be prominently displayed at the premises. A till prompt system will be utilised at the premises in respect of alcohol to remind staff of the need to check identification.

Applicant

11. The Applicant's licensing manager, Ms Hardish Purewal, and the proposed store manager, Ms. Sophie Fulgate, spoke on behalf of Tesco Stores Ltd. Ms Purewal explained how the Applicant will meet the licensing objectives and alluded to the fact that there are around 2,800 Tesco stores across the UK employing around 280,000 individuals. Ms Purewal explained that the Tesco store at 47/48 Elmsleigh Centre will be set up in the convenience format for the convenience market which individuals use as a 'top-up shop' rather than their weekly shop. This type of store is smaller and express.
12. Ms Purewal explained that the store intends to have about 20 employees with 3 managers and Ms Fulgate as store manager. If the licence is granted, Sophie will be the Designated Premises Supervisor (DPS) for the store.
13. Ms Purewal stated that Ms Fulgate is currently working in Isleworth and will join the Staines Tesco store in June to start the recruitment process, primarily from the local community. Ms Purewal added that Ms Fulgate has 12 years of experience with Tesco, lives locally and knows the area well, especially as Ms Fulgate's sister was the store manager at Monsoon.
14. Ms Purewal expressed that the Applicant takes pride in being a good neighbour, not only in considerable charitable donations throughout the UK, including to local organisations in Staines, but also by working closely with the police and residents. Ms Purewal added that Ms Fulgate will be available to support any groups in the area or set up any business partnerships with local organisations.

15. Ms Purewal stated that on a national scale, Tesco take responsibility on how alcohol is sold very seriously and have best practices across the industry. Ms Purewal explained that Tesco provide Think 25 training, work closely with Drinkaware and have links with the Home Office and Department of Health. Ms Purewal added that Tesco take part in Community Alcohol Partnerships and provide training for free to independent traders to promote their link with independent stores. Training is endorsed by BII.
16. Ms Purewal explained that when individuals join Tesco, induction training is provided which focuses on how Tesco sell alcohol and other age restricted products. Any issues are discussed with the staff. Once the induction is finished, further training is provided to staff on how alcohol is sold at checkout. In an express store, every member of staff will have had this training as they will work across the whole store. Ms Purewal added that refresher training is provided to staff twice a year which is audited. Security training is also provided which focuses heavily on alcohol and also training regarding how to handle a customer who is already intoxicated. Ms Purewal also mentioned that the licensing objectives are discussed with their teams to help ensure responsible retailing.
17. Ms Purewal highlighted that Tesco has been using their verification policy since 2004 and has led the industry with Think 25. The policy has been in effect for a long time to ask for ID to those who look under 25. In addition to this, when someone attempts to purchase alcohol, a prompt message asking the cashier to Think 25, along with a date of birth appears on the Tesco checkout system, so the cashier is able to verify the customers age with their ID. The cashier will be required to press yes or no in order to make a sale. High value items are tagged so a sound will go off at the security gates and spirits would be kept behind the counter. Body cams will be implemented in store on head sets so colleagues can communicate with each other. CCTV will also be implemented, which is linked to a hub in Daventry where a team watch the cameras, which are also linked to panic alarms. Ms Purewal added that the Applicant takes Think 25 very seriously and that every store is tested four times per year to ensure they are following Think 25 and action is taken if a cashier has not carried out Think 25 appropriately.
18. Ms Purewal outlined that risk assessments have been carried out and further assessments will be carried out to determine incidents and crime statistics in the area to decide hours of guarding. There will be a compliance team also in the store who will be able to deal with any matters and communicate with the police.
19. Ms Purewal explained that Ms Fulgate will ensure licensing conditions are followed, teams are trained and an external audit is arranged to carry out checks.

20. Ms Purewal highlighted that the police have not made her aware of any issues in the area. Ms Purewal asked the Councillors to take into account that the police did not submit any representations and that the licensing hours do not go against s182 guidance nor the Council's Statement of Licensing Policy.
21. Councillor Dunn asked Ms Fulgate how individuals would be dealt with if they were coming into the store before or after going into a nightclub in the area. Ms Fulgate responded by explaining that staff would be given training on this including training regarding Think 25 and conflict management. Ms Fulgate added that alcohol sale can be refused if people have been drinking already. Ms Purewal stated that although the store will not be selling small bottles which individuals can sneak into or drink prior to entering a nightclub, the Applicant is happy to work and communicate with the nightclubs to avoid any issues and provide the Applicant's staff with additional training for what to look out for between 10pm and midnight.
22. Following a question by Councillor Dunn, Ms Purewal responded explaining that other managers will be trained, not only Ms Fulgate.
23. Councillor Harman asked the Applicant about the sale of hot refreshments to which Ms Purewal responded explaining that this related only to a Costa machine and the Applicant is not looking to sell hot food.
24. In response to a question by Councillor Sider, Ms Fulgate confirmed that she has been working for Tesco for 12 years and has had a DPS licence for 2 years.
25. Councillor Sider asked the Applicant to be a good neighbour and change their licensable hours to sell alcohol and provide hot refreshments until 23:00 to align with other convenience stores in the area and minimise crime and disorder and anti-social behaviour. Ms Purewal responded by stating that there is no evidence to show that the current proposed licensable hours would increase crime and disorder and anti-social behaviour and therefore the Applicant proposes to maintain their licensable hours as in their application. Ms Purewal stated that if there is any indication that the licensable hours are causing a problem, the Applicant would be happy to make changes however at present, there are no issues identified.
26. Ms Purewal added that being a good neighbour is also about serving the local community and that individuals intending to buy alcohol after 23:00 are not necessarily looking to cause crime and disorder. Ms Purewal highlighted that we live in a 24-hour world and the store needs to adapt to what the community expect from it.

Representations

27. One written representation was received from one other person raising the following objections to the application under the licensing objectives:

Prevention of crime and disorder

- A potential for increase in anti-social behaviour, especially during the weekends.

Prevention of public nuisance

28. No other persons attended the Sub-Committee hearing.

Findings

29. The Sub-Committee has considered the representations made on behalf of the Applicant and the other persons in writing and finds as follows:

30. The Sub-Committee observes that Surrey Police, who are the main source of advice in relation to the prevention of crime and disorder licensing objective, did not submit a representation. Nor were any representations made by any of the other responsible authorities.

31. The Sub-Committee also notes that only one representation was made from other persons, who did not attend the hearing. Due to the absence of any other persons at the hearing, the Sub-Committee is mindful that it is only able to attach limited weight to the representation, as the other persons' views and evidence could not be tested.

32. The Sub-Committee is impressed by the Applicant's extensive training programme. Particularly with how the checkout tills operate with regards to a Think 25 message appearing on the screen featuring a date of birth when alcohol is scanned, which is hoped will encourage a well-managed premises. The Sub-Committee is also very impressed that Tesco do so much for Charity and are considered a well thought of company.

33. In terms of the steps available to the Sub-Committee in relation to determining this application, the Sub-Committee does not find that a rejection of the application or the exclusion of any of the licensable activities would be appropriate or warranted. The Sub-Committee is impressed that the store manager will be someone with many years' worth of experience, and consequently deems that refusing to specify a person in the licence as the premises supervisor would not be appropriate either.

34. In relation to the option of granting the application and modifying the conditions of the licence, the Sub-Committee is mindful of paragraph 9.43 of

the National Guidance which states that the “determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.” No actual evidence has been submitted before the Sub-Committee indicating that the licensing objectives would not be upheld. Consequently, the Sub-Committee finds this option to be neither appropriate nor proportionate given the evidence available to the Sub-Committee.

35. The Sub-Committee is disappointed that the hours for the supply of alcohol do not align with other supermarkets in the area, however, the Sub-Committee is mindful of paragraph 17.2 of Spelthorne Borough Council’s Statement of Licensing Policy and the National Guidance that states at paragraph 10.15, “shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.” The agreed conditions for the proposed licence are appropriate for the promotion of the licensing objectives and relevant to the premises.
36. The Sub-Committee therefore considers on the basis of the evidence that it has heard and the findings of fact that it has made, that there is no need to take further action for the promotion of the licensing objectives and can see no reason why the application should not be granted.

Decision

37. For the reasons stated above, the Sub-Committee confirms that the application for a premises licence be granted subject to only such conditions as are consistent with the operating schedule and the mandatory conditions.

Conclusion

38. That is the decision of the Sub-Committee. A copy of this decision has been provided to all parties concerned within 5 working days of the Sub-Committee hearing.
39. You have the right to appeal against this decision to the Magistrates’ Court within 21 days of receipt of this decision notice.
40. If you decide to appeal, you will need to submit your appeal to Guildford Magistrates’ Court. You should allow sufficient time for your payment of the relevant appeal fee to be processed. For queries, Guildford Magistrates’ Court can be contacted on 01483 405 300.

Cllr R.W. Sider BEM - Chairman
Cllr S.A. Dunn
Cllr A.C. Harman

Date of Decision: 28 April 2021
Date of Issue: 4 May 2021

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