

# LICENSING ACT 2003 SUB-COMMITTEE

Friday, 22 June 2012

Present:

Councillors	S Niblock	H Smith
	J Salter	A Sykes

5 **APPOINTMENT OF CHAIR**

Resolved -

(1) That Councillor H Smith be appointed Chair to consider the application regarding Tesco's, together with Councillors S Niblock and J Salter.

(2) That Councillor S Niblock be appointed Chair to consider the application regarding The Fender, together with Councillors J Salter and A Sykes.

6 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members were asked to consider whether they had personal or prejudicial interests in connection with any item on the agenda, and, if so, to declare them and state what they were.

No such declarations were made.

7 **APPLICATION FOR THE GRANT OF A PREMISES LICENCE - TESCO, BOROUGH ROAD, TRANMERE**

The Director of Law, HR and Asset Management reported upon an application that had been received from Tesco Stores Limited for the grant of a Premises Licence in respect of Tesco, Borough Road, Tranmere, under the provisions of the Licensing Act 2003.

The premises do not currently hold a Premises Licence. The application for the grant of a Premises Licence was for the following hours:

Supply of Alcohol

Sunday to Saturday            06:00 to 23:00

Hours Open to the Public

Sunday to Saturday            06:00 to 23:00

The applicant was required to submit an operating schedule setting out how they would conduct/manage their business in accordance with the four licensing objectives. A copy of the full application was available. Members were advised that

the proposals set out in the operating schedule may become conditions of the licence should the licence be granted.

In respect of this application, a representation had been received from a local business. The representation related to concerns that if the application was granted this may cause public nuisance within the vicinity of the premises due to anti-social behaviour from customers of the premises and underage drinking. A petition had also been received signed by 255 residents who were also against the application and who had concerns relating to public nuisance caused by customers and increased traffic problems. Copies of the representation and the petition were available.

No representations had been received from any of the Responsible Authorities.

Mr O'Hallaran, Manager and Mr Potter, Area Manager, attended the meeting together with their Solicitor Mr Rees-Gay, to outline the application.

Councillor D Realey attended the meeting to make representations on behalf of local residents.

The Licensing Manager confirmed that all documentation had been sent and received.

Mr Rees-Gay addressed the Sub-Committee and provided some background to the application. He reported that Tesco was a national retailer which sold alcohol as part of a range of products and that there were over 2,000 licensed stores and that Tesco were vastly experienced and had good systems in place regarding the sale of alcohol. He informed Members that all staff were trained regarding the four licensing objectives and that refresher training was provided. He reported that Tesco operated a 'Think 25' policy and that the store played an active role within the community. He also reported that the Manager and General Manager lived locally and therefore both had a good knowledge of the area. He advised that 7-10% of the sales would be alcohol-led. He referred to paragraph 8.4 of the Council's Licensing Policy and paragraph 10.22 of the statutory guidance which referred to the fact that premises should be permitted to sell alcohol for the hours they are open unless there are good reasons, based on the licensing objectives, for restricting these hours. He referred to the concerns of local residents, one of which being parking which he stated was not a licensing issue. He also referred to concerns raised regarding deliveries and informed Members that delivery of all products would take place at the same time therefore there would be no separate time of delivery for alcohol. Concerns had also been raised regarding crime and disorder, Mr Rees-Gay stated that there had been no evidence of this and that a security guard would be employed from 2.00 pm until closing every day. He suggested that contact numbers for Managers at the store could be given to the ward Councillor to address any concerns that may be raised and also offered to erect signage requesting that people leave the premises quietly. He also referred to the case of Thwaites and believed there was no evidence not to grant the application.

Mr Rees-Gay, Mr O'Hallahan and Mr Potter responded to questions from Members of the Sub-Committee.

Councillor D Realey, referred to the store that was currently situated next door to Tesco and believed that it would be forced to close down should the application be granted. She referred to the serious parking problems in the area and restrictions of parking spaces which was exacerbated during football matches. Councillor Realey referred to crime and disorder caused by youths climbing on the roof of the premises and noise and anti-social behaviour which would be caused by deliveries to the premises in the early hours of the morning. She also referred to the petition signed by 255 local residents who she believed strongly opposed the application.

Councillor Realey responded to questions from Members of the Sub-Committee.

In determining the application the Licensing Act 2003 Sub-Committee had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under section 182 of the Licensing Act 2003.

Members of the Licensing Act 2003 Sub-Committee considered the representations made by Councillor Realey on behalf of local residents regarding anti-social behaviour and public nuisance which she considered was currently a problem within the vicinity of the premises.

Members also had regard to the fact that there were no representations from the Responsible Authorities, in particular, Merseyside Police.

In determining the matter Members had regard to the applicant's approach to compliance with the Licensing Act 2003 and the Licensing Objectives through extensive training and monitoring of staff in relation to the prevention of the sale of alcohol to young persons under the age of 18 years and the refusal of the sale of alcohol to persons who are drunk.

Members noted that the store would have extensive CCTV coverage and employ a pro active approach to liaise with the community in order to prevent public nuisance within the vicinity of the premises.

Members accepted that the applicant had offered to display signs asking customers of the premises to leave the premises quietly. Members also noted the applicant's willingness to have a contact person in respect of any complaints and that contact numbers would be given to the local Councillor should any issues arise.

**Resolved -**

**(1) That, in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.**

**(2) That the application for a Premises Licence in respect of Tesco's be granted with the following hours:**

**Supply of Alcohol**

**Sunday to Saturday 06:00 to 23:00**

**Hours Open to the Public**

**Sunday to Saturday 06:00 to 23:00**

**(3) That the following condition be attached to the Premises Licence:**

- **There shall be placed at all exits from the premises, in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly.**

**8 APPLICATION TO REVIEW A PREMISES LICENCE - THE FENDER, 340 UPTON ROAD, NOCTORUM**

The Director of Law, HR and Asset Management reported upon an application that had been received from Merseyside Police for the review of a Premises Licence in respect of The Fender, 340 Upton Road, Noctorum, under the provisions of the Licensing Act 2003.

The premises currently have a Premises Licence which allows the licensable activities as set out in the report.

A copy of the Premises Licence setting out the hours and conditions attached to the licence was available.

The Director advised that the Sub-Committee may, having regard to the application for review and any relevant representations, take such of the following steps as it considered necessary for the promotion of the licensing objectives:

- Modify the Conditions of the Licence.
- Exclude a licensable activity from the scope of the Licence.
- Remove the Designated Premises Supervisor.
- Suspend the Licence for a period not exceeding three months.
- Revoke the Licence.

The Licensing Authority may decide that no action would be necessary if it found that the review did not require it to take any steps necessary to promote the licensing objectives.

The application had been submitted by Merseyside Police and the Licensing Sergeant advised that the grounds for review were in relation to the prevention of crime and disorder and public safety due to the Designated Premises Supervisor illegally abstracting gas at the premises. A number of breaches had also been identified including the premises trading outside of the hours permitted on the Premises Licence.

Further to the application being submitted the Premises Licence Holder had changed the Designated Premises Supervisor at the premises.

Sergeant P Jenkins and Constable P Coley, Merseyside Police, attended the meeting.

Ms B McBeath, Designated Premises Supervisor, attended the meeting together with Mr B Peace, Operations Manager, GRS Pubs Investment and Mr J Anderson, Solicitor.

The Licensing Manager reported that all documentation had been sent and received.

Sergeant Jenkins reported that he had been in close liaison with GRS Pubs Investments and that a good working relationship with them had now been established. Further to discussions with the Solicitor representing them, he advised that some conditions he had requested had already been put into place at the premises. Sergeant Jenkins reported that there was an ongoing criminal investigation into the illegal abstraction of gas at the premises and gave the circumstances surrounding the discovery of the gas being illegally abstracted and also of the breaches of the Premises Licence. Sergeant Jenkins proposed that certain conditions be attached to the Premises Licence which he believed would be fair and proportionate.

Sergeant Jenkins responded to questions from Members of the Sub-Committee.

Mr Anderson, Solicitor reported that GRS Inns were in the process of setting up a property team who would carry out audits on premises to check upon meters and ensure they had not been tampered with. He advised that a number of measures had now been put in place to ensure the conditions of the licence were complied with. He reported that a due diligence checklist would now be operated and that the Designated Premises Supervisor would attend a level 3 course for Designated Premises Supervisors and that the other members of staff would also be booked on courses. He advised that he was in agreement with the proposed conditions by Merseyside Police and submitted that this would be a proportionate approach.

Mr Anderson responded to questions from Members of the Sub-Committee.

Members gave careful consideration to the application made by Merseyside Police to Review the Premises Licence at The Fender, 340 Upton Road, Noctorum, and the representations made by representatives of GRS Inns and the Designated Premises Supervisor Ms McBeath.

In determining the review application Members had regard to the licensing objectives, the Council's Statement of Licensing Policy and relevant guidance issued under Section 182 of the Licensing Act 2003.

Members accepted the evidence provided by Merseyside Police that the gas supply at the premises had been unlawfully tampered with and breaches of the Premises Licence had occurred. Members therefore noted that Merseyside Police had concerns in respect of the licensing objectives of public safety and crime prevention regarding this.

Members welcomed the ongoing close liaison between GRS and Merseyside Police and the fact that GRS had indicated their intention to undertake regular checks at the premises.

**Resolved** -

**(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.**

**(2) That the conditions of the Premises Licence in respect of The Fender, 340 Upton Road, Noctorum, be modified as follows:**

- 1. CCTV installed at the premises must be in accordance with the specification issued by the Licensing Authority. Tapes and visual images recorded must be retained for a period of 31 days and access to the system must be made available to Licensing Officers and Responsible Authorities on request.**
- 2. That from 1 August 2012 the Designated Premises Supervisor at these premises must attain a minimum Level 2 Award for Designated Premises Supervisors.**
- 3. That from 1 August 2012 all staff authorised to sell alcohol must have attended training delivered either by Wirral Trading Standards or by a training provider who can deliver accredited training in relation under-aged sales.**