

## Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Wednesday, 10th January, 2007.

**Present:** Cllr K Leonard, Cllr Mrs K F Nelson, Cllr B Woodhead.

**Officers:** J Nertney (LD); Mrs C Llewellyn, M Vaines (DNS).

**Also in attendance:** For agenda item 4 - Tesco Stores, Billingham - Tesco Stores Limited (represented by Ms Naqshbandi, Solicitor) Mr Ian Jocelyn (Tesco Area Manager) Mrs Tracy Sissons (Designated Premises Supervisor), Mr Watson - Station Road, Councillor Smith.

**Apologies:** None.

### **887 Appointment of Chairman.**

RESOLVED that Councillor Leonard be appointed Chairman for this meeting only.

### **888 Tesco Stores Ltd, Bypass Road, Billingham - Application for grant of a Premise Licence under the Licensing Act 2003.**

It was noted that fourteen representations had been received, Mr Watson, a resident of Station Road was in attendance but indicated he did not wish to address the Committee. Councillor Smith, the Ward Councillor, was in attendance and had been requested to represent the views of Mr and Mrs Smith, residents of Station Road, who were unable to attend the meeting as they were on holiday. It was noted that Mr and Mrs Smith were not related in any way to Councillor Smith. None of the other persons who had made a representation were in attendance at the meeting.

The Licensing Officer presented the report to the Committee. Consideration was given to the application as outlined in the report by the Licensing Officer. Members noted that a representation had been received from Environmental Health but not from any of the other responsible authorities/statutory consultees including the Police. Representation had been received from fourteen persons living within the vicinity of the premises. Two of these persons was represented at the Committee, one was Mr Watson from Station Road and the other was represented by Councillor Smith, the Ward Councillor.

The Environmental Health Officer stated that the Environmental Health Section were of the opinion that the sale of alcohol till 00:00 would lead to an increase in the likelihood of public nuisance within the vicinity. An increase in numbers of customers using the store may lead to noise nuisance at a particularly sensitive time of night.

There were no questions of the Environmental Health Officer.

Councillor Smith appeared on behalf of Mr and Mrs Smith, residents of Station Road. Councillor Smith stated that the premises was primarily a garage and had been so for a number of years.

He was aware that there were problems of crime and disorder and Anti Social Behaviour in the area and he was amazed that the Police had not objected to the application. The problems include littering, graffiti and vandalism to bus stops and telephone boxes.

Councillor Smith stated that within the vicinity there were already twelve licensed premises which had licences to supply alcohol.

There were no questions of Councillor Smith

The Applicants representative stated that Miss Sissons would be the store manager and Designated Premises Supervisor, she had worked as a store manager for two years and had over 20 years experience in the licensed trade.

The Applicants representative had regard to the provisions of Section 176(1) of the Licensing Act 2003 and stated that as the premise had not yet opened she could give details on the number of similar premises in the UK. Tesco had 1600 stores around the UK of which 1100 were Tesco Express stores, of these 165 were located at petrol station sites. This store was been promoted as a convenience store.

Sufficiency of premises as outlined in some of the objections was not a relevant criteria for the Committee to consider.

It was unfortunate that local residents were experiencing anti social behaviour but this store would not add to that and should not be prejudiced by existing problems.

Tesco stores employ a security officer for the first three months of opening in order to iron out any teething problems and the situation would then be reviewed.

The Applicants representative noted that there were no objections from the Police.

If the premise did cause any problems for local residents they had the right to request a review of the premises licence.

The Members of the Committee then adjourned the proceedings for 20 minutes in order for the Applicants representative to seek clarification on the statistics quoted to demonstrate that the premises could lawfully operate and would not be in breach of section 176.

The meeting was reconvened and the Applicants representative advised that of the 165 stores based at petrol station sites they had an average of 45,000 customers per week of these 30,000 purchase both fuel and non fuel products. Of that 30,000 40% purchase just fuel and 60% also purchase non fuel products. This therefore illustrated that the primary use of the premises was not as a garage but as a convenience store. In analysing these figures 12,000 customers purchase only fuel and 33,000 purchase convenience products. In the view of the Applicants representative this should satisfy the Committee that the premises were not excluded from holding a licence to supply alcohol under the

Licensing Act 2003.

In considering their decision members were mindful that they needed evidence on which to base their decision.

The Committee had a lengthy debate about whether the premise was excluded from holding a licence under the provisions of Section 176 of the Licensing Act 2003. The Committee noted that the only evidence on which they had to base their views were generic figures for similar locations/operations around the UK. On the basis of this evidence they were swayed that the premises could be granted a licence. However the Committee were also conscious that the premise was not yet in operation and they therefore could not condone the operation of a premise if it did breach Section 176. The Committee therefore felt it appropriate to add a condition to the licence to ensure that evidence was provided by the Applicant once the premise had been operating for 6 months from the date of opening. This condition is detailed later in this note of the decision.

It was noted that the Police had not raised an objection to this application.

The Committee noted that the Objectors concerns were general in nature and could not be specifically linked to the premise. The Committee were satisfied that the Applicant was a responsible retailer and if the licence was granted the activity would not undermine the licensing objectives. Furthermore some of the objectors concerns were linked to sufficiency of premises which were not relevant considerations when considering this application.

When considering their decision the Committee had regard to the Statutory guidance issued under Section 182 of the Licensing Act 2003 and the Councils Licensing Policy.

RESOLVED that the application be granted as detailed in the application form which can be summarised as follows:-

- The supply of alcohol:-

Monday to Sunday: 06:00 to 24:00

The Committee also attached the following condition to the licence:-

1. On or before the anniversary of the premises been open and trading for six months the Applicant shall provide to the Council evidence/statistics in order to demonstrate whether the premise complies with Section 176 of the Licensing Act 2003.

The Committee noted that mandatory conditions would be placed on the Licence as detailed under the Licensing Act 2003. In addition the steps set out in the Applicants operating schedule at Section P of the application would also be converted into conditions to be placed on the licence where it is reasonably practicable for them to be converted into conditions.

**889 Myton House Farm, Ingleby Barwick, Stockton on Tees - Application for variation of a Licence under the Licensing Act 2003.**

Members were informed that as conditions had been agreed with Environmental Health and there were no other representations the application had been withdrawn from the agenda.