

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 20 JUNE 2007**

COUNCILLORS

PRESENT John Boast, Chris Bond and Norman Ford

OFFICERS: Carol Collins (Environmental Health), Mark Galvayne and Rose McMurray(Licensing), Linda Dalton (Legal Services) Jackie Barrett Democratic Services

Also Attending: 3 local residents, The Applicants (Tesco) and Mr Davies, the Applicants' representative (Tesco) The Applicant (Costcutter) and Councillor During

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WELCOME AND INTRODUCTIONS

The Chairman welcomed everyone to the meeting.

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APOLOGIES FOR ABSENCE

NOTED that there were no apologies for absence.

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DECLARATION OF INTERESTS

There were no declarations of interest.

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**APPLICATIONS FOR NEW AND/OR FOR VARIATION OF EXISTING
PREMISES LICENCE(S) AND/OR CLUB PREMISES CERTIFICATE(S)**

RECEIVED the report (No. 24) of the Acting Head of Licensing.

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TESCO 25 WINDMILL HILL ENFIELD EN2 7AE

SUBMITTED an application by Tesco Stores Ltd for a Premises Licence.

TABLED AND RECEIVED a revised set of conditions that replaced the conditions on page 25 of the report.

NOTED

1. The Chairman stated that this was an application for a premises licence. He reminded the persons present that the Sub Committee were guided by the Licensing Act 2003 and not by any planning objectives.

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2. The opening statement of Mr Galvayne, Licensing Officer, including:
 - a. The application sought the following:
 - Hours the premises were open to the public Sunday to Saturday from 06:00 to 23:00.
 - Supply of alcohol (off supplies) Sunday to Saturday from 06:00 to 23:00.
 - b. That as the conditions sought by the Metropolitan Police had been met the Metropolitan Police had withdrawn their representation.
 - c. The applicant and Environmental Health could not agree on condition 11.
 - d. Two local residents had attended the hearing to present their representations.
 - e. The applicants representative, Mr Davies, would propose amended versions of conditions 7 and 8 that the Licensing Department had no objection to.
3. The statement of Ms Collins, Environmental Health Officer including:
 - a. The reason for the representation from the Environmental Health Authority were that there was a potential for noise and disturbance to nearby residents from deliveries to the store, particularly early in the morning and at weekends. Tesco was situated in a parade of shops in Windmill Hill with residential flats above and residential houses behind the store, near to the delivery area in Florence Avenue.
 - b. Florence Avenue was a narrow residential road which was seriously parked mainly due its near proximity to the railway station. It was Ms Collins view that large delivery lorries for Tesco would cause noise nuisance and problems for the residents of Florence Avenue.
 - c. Ms Collins asked the sub committee to consider page 73 of the guidance section 6.3 which stated that supermarkets may sell alcohol for the same hours as they were permitted to make non-regulated sales unless there were exceptional reasons. She also asked the sub committee to consider page 13 paragraph 19.3 of Enfield's Licensing Policy which related to the prevention of nuisance and paragraph 8.3 which stated that stricter conditions could be imposed if the premises were immediately adjacent to residential properties. She suggested that the large

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delivery lorries could potentially cause a nuisance as they would be very close to residential properties.

- d. Ms Collins stated that the representation was only concerned with the delivery of alcohol and was asking that delivery of alcohol was restricted to 08:00 to 23:00 Monday to Saturday and 10:00 to 22:30 on Sunday.
 - e. In replying to a question from the Chairman Ms Collins confirmed that the store had planning permission to deliver other goods outside of the hours she was requesting above. Mr Davies, the applicants represented stated that if the Sub Committee were to restrict the hours for the delivery of alcohol this would not effect the delivery of other goods to the store as planning permission for this had previously been granted.
 - f. Ms Collins, in reply to a question from Councillor Bond, confirmed that Environmental Health were asking for a restriction on delivery times to avoid disturbance to residents who may be asleep early in the morning.
 - g. As the premises was currently empty Environmental Health had not been able to do any observation to see what effect activities in the store would have on local residents.
 - h. Ms Collins referred the Sub Committee to page 22 of the report which was a letter of objection from Mr Howard, a local resident
4. The statement of Mr Canham, a local resident, including:
- a. That there **were** already a number of outlets in the area selling alcohol.
 - b. That he had witnessed, on a number of occasions, groups of youths drinking alcohol illegally and behaving antisocially on the green near to the premises. It was his view that society should think of the harm under aged drinkers were doing to their health.
 - c. In reply to a question from Ms Collins Mr Canham confirmed that he lived off the Ridgeway, Enfield
5. The statement of Mrs Howard, a local resident, including:
- a. That Mrs Howard lived in the first house in Florence Avenue. The side of her house was approximately 4 feet from a fence that bordered the Tesco delivery area/service road. Mrs Howard's bedroom was downstairs on the same side of the house as the service road.

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- b. Mrs Howard confirmed that there was already parking problems in Florence Avenue. She had been informed that Tesco would be employing 12 staff who would possibly all need parking spaces. The car park in the road had recently been granted planning permission for the building of 12 residential flats.
 - c. Mrs Howard stated that she had been told that deliveries would be made to the front of the store. It was her view that deliveries to the front of the store would be impossible due to the position of traffic islands in Windmill Hill and the fact that the road was busy and narrow.
 - d. Mrs Howard said that there had been groups of youths in the area causing problems and another outlet selling alcohol could add to these problems in the area.
 - e. The applicant agreed to speak to Mrs Howard after the meeting with regard to the deliveries Tesco would be making.
 - f. in answering a question from Ms Collins, Mrs Howard confirmed that she had been woken by a delivery of a fridge to the store at 07.00 one morning.
6. The statement of Mr Davies including the following:
- a. That the Metropolitan Police had withdrawn their representation after the applicant had agreed to their conditions.
 - b. The Environmental Health representation was based only on the hours of delivery of alcohol. Condition 11 had been amended to read : 'Deliveries of alcohol will be incorporated into the existing deliveries of goods to the premises and there will be no separate individual deliveries to the premises of alcohol products only. Such deliveries will not arrive at the premises before 07:30 on Mondays to Saturdays (inclusive), or before 10:00 on Sundays or Bank Holidays and shall not arrive after 22:00 on any day of the week'. The applicant had agreed to the first part of the condition that the delivery of alcohol would only be made with the delivery of other goods but not to the second sentence that restricted the hours of delivery, as the store had planning permission to deliver other goods outside of these hours.
 - c. Mr Davies stated that Tesco was a big experienced business that managed its relationships with its neighbours very well and there were no reasons to believe that this store would not be respectful and considerate to its neighbours in this case
 - d. Mr Davies referred the Sub Committee to paragraph 3.5.1 of the guidance which stated that the Licensing Authority had no power to attach aspirational conditions. He also referred the Sub

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Committee to 21.8 of Enfield's policy document which stated that so far as possible duplication with other regulatory regimes will be avoided and section 5.2 paragraph 5.99 which stated that a lighter touch should be applied in the case of a new license application.

- e. Mr Davies commented that it was not in the interest of Tesco to have problems with youths in the area. Tesco had a good working relationship with the Police, it had pioneered the 'Think 21' scheme that had been rolled out nationally. Tesco had staff meetings daily and any problems with customers were related to staff. CCTV footage showing problem customers was made available to staff and the Police
- f. Mr Davies read out the amended conditions 7 and 8 as follows:
 - 7. The 'Think 21' proof-of-age scheme shall be operated at the premises and suitable signage relating to this shall be displayed at the premises.
 - 8. Where a sale of alcohol is refused at the checkout following the 'Think 21' checkout prompt being displayed a record of this will be maintained so that it is capable of being included within store level reports if required.

As previously stated the new conditions 7 and 8 were agreeable to the Licensing Officer.

- g. In answering a question from Ms Collins, Mr Davies stated that deliveries to the store were going to happen whether the deliveries included alcohol or not
- h. The applicant confirmed in keeping with the Tesco's good neighbourhood policy that deliveries would be arranged at acceptable times and deliveries would be refused if outside of these times. He confirmed that all deliveries would be made at the rear of the store. Risk assessments would be carried out in accordance with relevant legislation to minimise noise and nuisance and for the health and safety of store staff and delivery drivers.

RESOLVED that

- (1) In accordance with the principles of Section 100(A)(4) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A to the Act, (as amended by the Local Government (Access to Information) (Variation) Order 2006 as are listed on the agenda).

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The Panel retired, with the legal representative and administrator, to consider the application further and then the meeting reconvened in public.

(2) The following statement was made by the Chairman:

“We have listened to the representations made against this application. Our opinion is that this site is unsuited to use as a store of this nature by virtue of parking and delivery problems. However, these are planning matters and rightly or wrongly, these have been approved. We understand that permission may have been granted without the application going before the Planning Committee but in any event our views on this adequacy or otherwise of the process and the rightness or otherwise of the decision are not matters that we are able to take into consideration when considering the granting of a License under the 2003 Act.

It has been argued that there is no need for another licensed premises in this area. As individuals we might agree with this view but as this is a commercial decision rather than one that relates to the statutory licensing objectives it is not something that we can take account of.

We accept that the congregating of young people drinking alcohol in public places is highly undesirable but we have not heard that the granting of a license to these particular premises at the early hour sought will cause or add to this problem.

We are not satisfied that noise nuisance will occur solely as a result of the deliveries of alcohol. It may arise from deliveries in general and if so the remedy must lie with the procedures for dealing with statutory noise nuisance and the issue of abatement notices.

In this situation we can find no reasons under the Licensing Act or under our Licensing Policy not to grant the application subject to the following conditions:”

1. No supply of alcohol may be made under the premises licence:
 - (a) At a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. There shall be no adult entertainment or services, activities or matters ancillary to the use of the premises that may give rise to concern in respect of children.

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4. A CCTV system shall be installed, operated and maintained at the premises.
5. A member of the Management team shall be on the premises whenever the premises are open.
6. The check-out area shall be manned whenever the premises are open.
7. The 'Think 21' proof-of-age scheme shall be operated at the premises and suitable signage relating to this shall be displayed at the premises.
8. Where a sale of alcohol is refused at the checkout following the 'Think 21' checkout prompt being displayed a record of this will be maintained so that it is capable of being included within store level reports if required.
9. The premises must be fitted with a digital Closed Circuit Television (CCTV) system, which must conform to the following points: (1) If the CCTV system is inoperative or not working to the satisfaction of the Police or Licensing Authority for a period of more than 7 days the premises shall not be used for licensable activities without the prior consent of the Police; (2) Cameras must be sited to observe the entrance door both inside and outside, the counter areas and all alcohol displays; (3) Cameras on the entrances must capture full frame shots of the heads and shoulders of all people entering the premises i.e. capable of identification – not less than 120% of screen; (4) Other cameras must capture frames not less than 50% of screen; (5) Be capable of visually confirming the nature of the crime committed; (6) Provide a linked record of the date, time and place of any image; (7) Provide good quality images – colour during opening times; (8) Operate under existing light levels within and outside the premises; (9) Have the recording device located in a secure area or locked cabinet; (10) Have a monitor to review images and recorded picture quality; (11) Record images as near to real time as possible; (12) Recorded images must be of sufficient quality that persons can be identified from the recorded pictures as well as the live view; (13) Be regularly maintained to ensure continuous quality of image capture and retention; (14) Comply with the Data Protection Act (DPA) and any applicable British Security Industry Association (BSIA) codes of practice; (15) Have signage displayed in the customer area to advise that CCTV is in operation; (16) Be operated by the correct procedures, to ensure an evidence trail is recorded and can be retrieved for evidential purposes; (17) Digital images must be kept for 31 days; (18) Checks should be frequently undertaken to ensure that the equipment performs properly and that all the cameras are operational and a log kept; (19) The medium on which the images have been recorded should not be used when it has become apparent that the quality of the images has deteriorated; (20) Access to recorded images should be restricted to those staff that need to have access in order to achieve the purposes of using the equipment; (21) All access to the medium on which the images are

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recorded should be documented; (22) Police will have access to images at any reasonable time; (23) The equipment must have a suitable export method, e.g. CD/DVD writer so that the police can make an evidential copy of the data they require. This data should be in the native file format, to ensure that no image quality is lost when making the copy. If this format is non-standard (i.e. manufacturer proprietary) then the manufacturer should supply the replay software to ensure that the video on the CD can be replayed by the police on a standard computer. Copies must be made available to Police on request; (24) Disclosure of the recorded images to third parties should only be made in limited and prescribed circumstances, law enforcement agencies, Prosecution agencies, relevant legal representatives and people whose images have been recorded and retained.

10. The premises must be fitted with an alarm system to EN 50131, which is capable of confirmation and incorporate a panic button facility at the counter.
11. Deliveries of alcohol will be incorporated into the existing deliveries of goods to the premises and there will be no separate individual deliveries to the premises of alcohol products only.

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COSTCUTTER 6-8 THE GREEN, WINCHMORE HILL N21 1AY

SUBMITTED an application by Mr Mohammed Salim for a variation of a Premises Licence.

NOTED

1. The statement of Mr Galvayne, Licensing Officer, including:
 - a. That the application was for a variation to the current Premises Licence to allow the sale of alcohol 24 hours 7 days a week.
 - b. Conditions set by the Metropolitan Police and the Environmental Health had been met and therefore both parties had withdrawn their representation.
 - c. Representation had been received in the form of an email from a local resident, Ms Goodfellow, a copy of her representation was included in the report on page 45. Ms Goodfellow was not present at the hearing.
 - d. In replying to a question from the Chair Mr Galvayne confirmed that the store was not in a no drinking zone and the closing times of the local public houses were as follows:

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- The Kings Head 24:00
- The Salisbury Arms 23:30 and
- The Queens Head 23:00

2. The statement of Mr Salim, including:
 - a. That the supermarket which was situated in a highly populated area was currently open 24 hours a day. Mr Salim had submitted the application after receiving a number of requests to do so from regular customers.
 - b. Mr Salim stated that the premises, in the 2 years since he had been there, had not had any problems with regard to law and disorder.
 - c. In answering a question from the Chairman with regard to the statement in Ms Goodfellow's email that the premises had been known in the past to sell alcohol to under aged drinkers, Mr Salim stated that this must have been the previous owners of the premises.
 - d. Mr Salim confirmed that the store did not and did not intend to sell alcohol to customers who were obviously drunk. He had no knowledge of local public houses in the area experiencing problems with drunk customers.

RESOLVED that

- (1) In accordance with the principles of Section 100(A)(4) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A to the Act, (as amended by the Local Government (Access to Information) (Variation) Order 2006 as are listed on the agenda).

The Panel retired, with the legal representative and administrator, to consider the application further and then the meeting reconvened in public.

- (2) The following statement was made by the Chairman:

"We note the application and the representation from the interested party. Unfortunately due to the interested party not being at the hearing today we were unable to question her on her representation. Having regard to the council's Licensing Policy and the representation the application for the variation of this Premises License is granted subject to the conditions in the report. The applicant is reminded that he must adhere to the statutory licensing objectives and that if not the

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responsible authorities or interested parties could ask for a review of the License.”

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**TEMPORARY EVENTS NOTICE: LUCKYS - 312A GREEN LANES, N13
5TW**

REPORTED that the temporary events notice for Luckys had been withdrawn and that the Sub Committee therefore had no notice to consider in respect to this application.

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MINUTES OF THE MEETINGS HELD ON 16 MAY 2007 AND 30 MAY 2007

NOTED that the minutes of the following meetings were agreed:

16 May 2007 and
30 May 2007.