

**Decision Notice**

Date	7 March 2014
Applicant	Tesco Stores Ltd
Reason for Hearing	<p>The Licensing Authority received an application for the grant of a Premises Licence at Tesco, Lytham Road, Warton.</p> <p>There had been a representation from Lancashire Constabulary, who are a responsible authority under the Licensing Act 2003, which meant the Committee must determine the application.</p>
Parties in attendance	<p><b>Panel</b> – Councillor Angela Jacques, Convenor, Councillors Keith Beckett ISO and Alan Clayton</p> <p><b>Applicant:</b> Paddy Whur, Legal Representative from Woods Whur LLP, Greg Bartley and Mark Edworthy representing Tesco Stores Ltd</p> <p><b>Responsible Authorities:</b> Sue Slater (Licensing Clerk, Lancashire Constabulary)</p>

The Licensing Authority received an application for the grant of a Premises Licence at Tesco, Lytham Road, Warton. There had been a representation from Lancashire Constabulary, who are a responsible authority under the Act, which meant the Committee must determine the application.

The panel carefully considered verbal representations submitted by and on behalf of the applicant and the responsible authority.

In considering the application, the panel had to consider whether granting the licence would undermine any of the four licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

The licensing objectives addressed by the objections were the prevention of crime and disorder and the protection of children from harm.

The panel heard from Ms Slater on behalf of Lancashire Constabulary that mediation had led to a number of conditions being agreed by the parties. However, the parties had failed to agree that a condition relating to the requirement to keep a refusals log was appropriate to promote the licensing objectives. Ms Slater submitted that a refusals log was important evidence for the police that staff were challenging customers and which members of staff were making the challenge. The police considered it to be important for intelligence gathering purposes should a premises fail a test purchase and also provided accountability for staff. She submitted that it was not an unreasonable request and that the register could be stored digitally or in paper form.

The panel heard from Mr Whur on behalf of the applicant that there were already 4 Tesco Express stores within the Fylde Council boundaries and that the new store would operate to the same business model. He said that none of the existing stores had a requirement to keep a refusals log and that no evidence had been submitted by Lancashire Constabulary that any of those stores were not promoting the licensing objectives. He submitted that therefore it was not appropriate to impose such a condition and it would in fact be disproportionate. He also made reference to the Thwaites case which was a high court case that held that the licensing regime was a light touch bureaucracy and that conditions should only be imposed where there was clear evidence that the operator was not promoting the licensing objectives. He also submitted that Tesco had a rigorous training regime and already had checks in place at the point of sale to prevent the sale of alcohol to underage customers.

The panel listened carefully to both parties but considered that the till prompt facility in place at the point of sale did not sufficiently promote the licensing objectives in that there was no permanent record that refusals were being made. The panel consider that an incident log would provide continuity to any potential police enquiry in protecting children from harm. The panel heard from the police that there was evidence of disorder in the area due to the age demographic and the panel were inclined to agree given their local knowledge. The panel noted that Tesco had procedures in place for reporting crime and disorder to the head office but there was no record retained of refused sales to under age customers.

## **DECISION**

Taking into account the Information put before the Panel, the Council's Statement of Licensing Policy and the Guidance issued under section 182 of the Licensing Act 2003 the panel decided:

To grant the licence subject to the conditions contained in the email from Greg Bartley, Licensing Manager, dated 12 February 2014 and annexed to this decision together with an additional condition as follows:

*An incident book will be maintained, in which shall be recorded:*

*Refused sales to suspected under age/ drunken persons.*

*That book shall be available for inspection by a Police Officer or authorised person.*

Email received from Greg Bartley, Licensing Manager Tesco Stores Limited.

Sent : 12 February 2014, 11:58

To : Emma Pritchard, Andy Hough, Chris Hambly, Feri Askew

Subject : New Premises Licence Application Tesco Stores Ltd Lytham Road Warton

- The Licence holder is to support and rigorously enforce the Challenge 25 proof of age policy. All staff will be trained to ask any person who they believe looks or appears to be under the age of 25 to provide identification that they are over the age of 18 to purchase alcohol. The following are forms of identification that is acceptable:
  - Photo driving licence
  - Passport
  - Proof of Age Standards Scheme Card
  - National ID card
- All staff to have received suitable training in relation to the proof of age scheme to be applied upon the premises. Records to evidence this will be made available to an authorised officer upon request. Refresher training shall be conducted every 6 months as a minimum.
- Ordinarily a member of management team will be on the premises at all times the premises are open to the public. In exceptional circumstances where this is not the case another member of staff will be given responsibility of the premises and all staff will have knowledge of who this person in responsibility is.
- CCTV will be installed internally at the premises and will comply with the following:
  - The CCTV system shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. Many areas of the premises are to be covered by the system including the entrance/exit checkout and main alcohol display. The system will be capable of providing an image which is regarded as identification standard.
  - The system will display on any recording the correct time and date of the recording.
  - The system will make recordings during all hours the premises are open to the public.
  - VCR tapes or digital recording shall be held for a minimum of 21 days after the recording is made and will be made available to the Police or any authorised persons acting for a Responsible Authority for inspection upon request.
  - The system will, as a minimum, record images of the head and shoulders of all persons entering the premises.
  - A staff member who is conversant with the operation of the CCTV system will be on the premises at all times the premises are open to the public. This staff member will be able to show recent data or footage with the absolute minimum of delay when requested to a Police Officer or to a Local Authority Enforcement Officer.
  - If the CCTV is not working correctly the licence holder shall take immediate steps to rectify the fault. A log of the steps shall be kept and be made available for inspection Police Officer or to a Local Authority Enforcement Officer.
  - Appropriate signage alerting customers to CCTV recording shall be displayed in conspicuous positions on the premises.
- An authorisation of sales, signed and dated by the DPS, shall be kept at the premises showing all persons authorised by them to make sales of alcohol at the premises.