

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Tuesday 6 July 2021 at 9.30 am**

Present:

Councillor J Blakey (Chair)

Members of the Committee:

Councillors R Adcock-Forster, D Stoker, E Waldock and M Wilson

Also Present:

Helen Johnson – Licensing Team Leader
Gill Proud – Legal Adviser, DCC
Hardish Purewal – applicant's representative
James Delaney – on behalf the Applicant
Hannah Shepherd – Durham University
Esther Ashby – other person
Councillor Susan Walker – Durham City Parish Council

1 Apologies for Absence

An apology for absence was received from Councillor A Batey.

2 Substitute Members

Councillor M Wilson substituted for Councillor Batey.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Grant of a Premises Licence - Tesco, 18-29 Claypath, Durham

The Sub-Committee considered a report of the Licensing Team Leader regarding an application for the grant of a Premises Licence in respect of Tesco, 18-29 Claypath, Durham (for copy see file of Minutes).

A copy of the application and supporting information had been circulated to all parties.

The Chair invited Councillor Susan Walker to address the Sub-Committee on behalf of Durham City Parish Council. Councillor Walker stated that the Parish Council objected to the application under the licensing objectives public safety, prevention of public nuisance and prevention of crime and disorder.

The application was in breach of Durham County Council's Framework Hours and the Parish Council was unclear why the applicant was asking for hours that were longer than other Tesco premises in the City. It was not only in conflict with Durham's Licensing Policy but also the SHH campaign. Durham was a compact City with many residential streets in close proximity to each other. The operating hours should be in line with the Licensing Framework Hours.

There were issues with people gathering outside other Tesco premises in the City and there should be a Management Plan to make sure this did not happen.

The Parish Council also sought assurances that deliveries would take place in accordance with the Student Management Plan. Passing points were limited and controls needed to ensure that vehicles were not sat on Claypath waiting to make deliveries.

In terms of the prevention of crime and disorder, Cllr Walker stated that the applicant was clearly targeting the student market in the City. Incidents of alcohol fuelled late night crime and disorder were increasing which would be exacerbated if the licence was granted.

It was unclear where the CCTV cameras would be positioned but should encompass both inside and outside the store, and where the sale of alcohol would occur. The system should also have a battery back-up in the event of power failure. The applicant should also ensure that an appointed member of staff trained in the use of the system and competent in downloading footage was available at all times.

In terms of the licensing objective, public safety the Parish Council noted that there was no mention in the application of where alcohol would be stored. Alcohol was flammable and without knowing where it would be kept it was difficult to ascertain if this undermined the licensing objective.

In conclusion the Parish Council considered that the application should be refused.

Mrs Esther Ashby addressed the Sub-Committee on behalf of her husband, herself, and local residents. Mrs Ashby referred the Sub-Committee to the written representations, and noted that it was difficult to make a reasoned argument as the application did not contain any detail. She was sure that the applicant's representative would address these omissions in her representations.

Esther Ashby believed that the Sub-Committee had a priori ground to reject the application based on licensing policy, and referred to paragraph 5.5 regarding the locality. There was no evidence from the applicant that they had any appreciation of the impact of the hours on the community.

The premise was within a purpose-built block; only 300m away there were two other similarly sized purpose-built blocks.

It might appear that the residents' representations were based on anti-student feelings but this was not the case, it was about everyone in the area who had a right to a peaceful night. The Parish Council in conjunction with stakeholders had spent three years putting a package of measures together to deal with night-time disturbance, the SHH campaign. Granting this application would ruin that campaign and having signs and stickers promoting the campaign across the locality would become meaningless if in the centre of it all was a shop which was open until midnight.

In conclusion Esther Ashby asked the Sub-Committee to take into account the locality, and reject the application, and possibly request the applicant to re-submit a more detailed application so that residents would know what they were facing. If the Sub-Committee was minded not to refuse the application she asked Members to consider reducing the hours to within the Licensing Framework hours and subject the licence to serious conditions to address disorder at weekends and Thursdays when there should be extra door and management supervision, to ensure that customers left the premises quietly, and to ensure that commercial bins were not left outside.

Hannah Shepherd of Durham University addressed the Sub-Committee and began by stating that students lived as far out of the City in locations such as Belmont and Carrville, and 1/10th of the overall student numbers lived within 300m of this building. The premise was on a busy foot route from the night-time economy to the student accommodation. Non-students in the area had different lifestyles and working hours. The University's community relations with residents was very important. Engagement with key stakeholders was not evidenced by the applicant. The University had a good relationship with Tesco during the pandemic, but this was not evident in this application.

The biggest anti-social noise issue she felt may arise was the possibility of transient noise from groups travelling home. This area was well-known as a hotspot.

There were two other Tesco premises in the City but this was a very different location. The store in North Road was in the heart of the economy and was a source of problems for people living there already, but residential properties were limited. The second store was in the commercial centre where there was limited residential accommodation. Claypath was different in that it was a mix of students and residents. Transient noise would increase causing further detriment to residential amenity. She would like to see a copy of the Good Neighbour Policy to see how the applicant would reduce and control anti-social noise.

Measures she considered might be reasonable included;

- Hours to be brought within the Framework Hours
- Applicant to agree to the University's recommendations regarding the PSPO
- Promotion of the SHH campaign in store
- Placing posters around the premises so that it was clear that there were residents living all around the area
- Applicant to participate in local community initiatives
- Provision of door security during bigger events in the City
- Staff to remind customers to leave quietly and to prevent entering of the premises if necessary.

At this point Hardish Purewal was invited to address the Sub-Committee on behalf of the Applicant. She commenced by explaining that the premise was due to open at the end of September, early October. Tesco had 2800 stores across the country with 300k colleagues. The company had 2 formats, large and convenience. The stores in Durham were for top-up shops, alcohol was a very small proportion of sales. Of 100 MODs only 5 plus 1 behind the checkout would be for the display of a limited range of alcohol. The store would have 18 colleagues and 4 Managers, both full time and part time. The roles would be filled by experienced people from existing stores in the City and local community. There would be no miniatures, half-sized products, white ciders or any other items the Police consider should not be sold.

James Delaney currently worked in the North Road store and a new Manager had been appointed who was a local and very experienced person.

Those making representation had referred to a Good Neighbour Policy; this was not a written policy but an ethos. Part of this included supporting community groups with community grants. The applicant would be happy to engage with community groups and sort any issues they may have. This was a long-term investment in the community. The applicant would be happy to assist with the SHH campaign, putting

campaign posters as well as their own instore and would remind customers verbally too. Tesco worked with the Police, and it was key that the Police did not raise any concerns. Appropriate weight should be given to that by the Sub-Committee.

Tesco took how it sold alcohol very seriously and had good relationships with Licensing Authorities. She was the chair of a local standards group for alcohol sales and produced guidance and posters for retailers. She was involved in Community Alcohol Partnerships which looked at issues such as underage sales, training in Think 25 and alcohol-related anti-social behaviour. This might be useful to discuss with Hannah Shepherd.

Other agencies Tesco worked with included Drink Aware, the Home Office and Department of Health.

The training was to BII Standard and was documented and audited. Training involved role play and group talks, training on the use of the tills which had prompts, aisle work and security, conflict training, proxy sales and they had strict policies about not serving intoxicated customers. Refresher training was carried out twice yearly on underage sales; they operated Think 25 and only accepted Home Office recommended ID.

Tesco empowered its staff to make decisions and would always be supported by Managers.

There would be between 12 and 15 cameras inside the store but there were data protection issues with external cameras. A central team monitored the cameras at all times. Stores had panic alarms and high alcohol value items were tagged. Spirits were kept behind the counter.

Crime figures and store incidents would inform what door supervision was required and when. Store Managers were empowered to close a store or stop selling alcohol.

Tesco had their own central licensing and compliance team and carried out test purchases using 18 year olds to check that Think 25 was being operated.

Tesco had a close relationship with the Police who made the company aware of any issues. The Police trusted Tesco to make appropriate decisions where there had been issues, such as during Freshers Week.

The store would not have local promotions, Tesco Express stores were excluded from a lot of Tesco promotions.

Alcohol deliveries would be consolidated with normal grocery deliveries. The application included Late Night Refreshment purely for a coffee machine.

Hardish Purewal continued by thanking everyone for their representations which gave Tesco a good idea of what was going on locally. The store Manager would be happy to work with the community and would assist with any issues. Addressing the representations she stated that they did ask people loitering to move along but at

the moment there was no evidence of that. The store was looking to serve local residents.

With regard to noise, Tesco were happy to support the SHH campaign and would remind customers verbally, as well as having their own posters.

She did not anticipate congestion later in the evening but once the store was there, if this did happen they would deal with it.

Residents or students who were intoxicated would be refused alcohol. Litter bins would be located outside and the Shift Leader would ensure that the shop front was tidy.

There would be a member of staff on site at all times who could download and produce the footage at the request of the Licensing Authority or Police.

'Ordinarily' a Manager would be on site. If there was an occasion where a Manager was not present and there was no-one in store who could step up, the store would be closed until a Manager was called in.

Tesco would support the PSPO in the area, and customers could be reminded of this by staff if requested.

With regard to the Framework Hours they would be happy to amend the evening hours but wanted to retain the 6am opening. There was presumption that hours should be granted as requested unless there was a good reason for not doing so. There had been no representations made regarding the opening hour.

The Police had not made any representation and appropriate weight should be given to that in line with S182 Guidance and the Thwaites case.

Questions were invited of the applicant's representative.

Following a question from the Licensing Team Leader, Members were informed that there were likely to be door supervisors at certain times, based on a risk assessment.

Esther Ashby referred to the oversight of CCTV cameras by a Central Team and was informed that the store manager could see the camera footage and there was a central hub covering lots of stores which was able to collate evidence following any incidents. Teams now also wore body cameras.

Esther Ashby noted that it had been said that Tesco had good relations with the Police and asked if this was generally, or if the applicant had been in discussion about this specific application. She also asked if they had worked in partnership in respect of the incident at the North Road Store when queues outside had caused issues.

Esther Ashby was informed that Tesco would work with the Police but the Police had not made contact with regard to this application. Ordinarily the Police would raise any issues they felt needed addressing during the application process.

With regard to the incident at North Road, James Delaney explained that a lot had been learnt from that incident which had occurred during the pandemic when pubs were required to close at 10pm, and queues had developed outside the store.

Esther Ashby referred to the proposal for risk assessments to be carried out which would determine the need for door supervisors, but she felt these arrangements should be confirmed now. James Delaney explained that door security at the moment at the North Road store was present on Friday, Saturday and Sunday but the needs may be different at Claypath. For example Thursday nights were busy for students. They therefore wanted to remain flexible.

Hannah Shepherd thanked the applicant's representative for the thorough review of the representations and willingness to engage. She made reference to a recently withdrawn application in the locality where the Police had made representation about the significant impact of increased hours of trading. She asked why the same statement did not apply in respect of this application, which was only doorsteps away.

Hardish Purewal stated that this was difficult to answer. The Police had not made representation.

Gill Proud, the Legal Adviser to the Sub-Committee reminded all parties that each application must be considered on individual merits; the Police had not made representation in respect of this application.

Hannah Shepherd referred to the Good Neighbour Policy and whether it should be included if it did not exist. Hardish Purwal responded that a good neighbour encompassed so much; what was considered to be a good neighbour at this store might not be appropriate for another. She conceded that perhaps it should be referred to as an ethos.

Following questions from Councillor Wilson, the Member was informed that MODs were 1m wide. Spirits and high alcohol volume drinks would be kept behind the kiosk with wines, beers and cider on the shop floor. Beer stacks were normal practice in floor displays.

Alcohol sales between 11 and 12 midnight were expected to be a very small percentage of sales, as footfall later in the day petered out.

Councillor Waldock asked for confirmation that the MOD behind the counter was included in the 5 MODs for alcohol display, and was informed that it was not.

Councillor Blakey noted that CCTV footage was only retained for 21 days. The Member was informed that this was normal practice in case the system failed allowing time to repair and produce footage within the normal 31 days.

Gill Proud referred to the statement in the application that a member of the Management Team would 'ordinarily' be on the premises, and asked if Hardish Purewal agreed that it should not be stated in those terms. Hardish Purewal summarized that it was phrased in this way so that if a Manager was not present in store for a very short period of time, they would not be in breach of the licence conditions.

All parties were invited to sum up.

Hardish Purewal stated that the applicant had demonstrated that they were an excellent operator who hoped to take part in partnership working, and who had policies and practices in place to uphold the licensing objectives. There were no objections to the application from the Police and appropriate weight should be afforded to that in accordance with S182 Guidance and the Thwaites case. If the application was granted the applicants looked forward to being in the community and working in partnership.

The Sub-Committee thanked everyone for their attendance and Councillors Blakey, Wilson and Waldock **Resolved** to retire to deliberate the application in private with all parties being notified of the decision later in the day.

In reaching their decision the Sub-Committee considered the report of the Licensing Team Leader, the written representations of other persons, and the verbal representations of the Parish Council, Hannah Shepherd of Durham University, Mrs Esther Ashby on behalf of local residents, herself and her husband, and the applicant's representatives, Hardish Purewal and James Delaney. Members also took into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved:

That the application be granted as follows:

| Licensable Activity | Days & Hours |
|-------------------------------|--|
| Sale of Alcohol (3 off sales) | Monday to Sunday Thursday 07:00 hrs to 23:30 hrs |

| | |
|----------------------------------|--|
| Late Night Refreshment (Indoors) | Monday to Sunday 23:00 hrs – 23:30 hrs |
| Opening Hours | Monday to Sunday 06:00 - 00:00 hrs |

The Sub-Committee determined that it was appropriate for the promotion of the licensing objectives to modify the conditions as follows:-

- a) The CCTV equipment must:
 - be maintained in good working order
 - show the correct time and date
 - provide footage showing details for evidence of identity i.e. facial / the overall view of the scene and;
 - be kept for a minimum period of 28 days
- b) The CCTV system shall incorporate a battery backup system to enable 24-hour continuous recording in case of any power blackout / failure.
- c) The premises licence holder must ensure there is a member of staff available on the premises who is capable and competent in using the CCTV system. This to include the showing and downloading of the footage onto a disc, hard drive or memory stick when requested by the police / or authorised officers of the local authority.
- d) CCTV cameras should be positioned internally to cover all entrances and exits to the premises used by the public. A camera should also be placed to cover the area where the sale of alcohol occurs.
- e) Acceptable forms of ID include a card bearing the PASS hologram, Armed Forces ID card, a photographic driving licence or a passport, or any ID agreed by the Home Office.
- f) Signage will be displayed in a prominent place within the premises asking customers to respect the needs of the local residents and to leave quietly.
- g) A rubbish bin will be placed at the front of the premises.
- h) At the end of business staff will ensure that litter is collected from the front and within the immediate vicinity of the premises.

- i) Where groups of people congregate outside of the premises, staff will encourage people to move away from the store.
- j) A member of the management team will be present on the premises at all times when the store is open, and this person will have responsibility for the premises whilst the premises are open.