

Licensing Sub-Committee

19 April 2022

New Premises Licence Application for Tesco, Weymouth

For Decision

Portfolio Holder: Cllr L Miller, Customer and Community Services

Local Councillor(s): Cllr H Legg

Executive Director: J Sellgren, Executive Director of Place

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Report Status: Public

Brief Summary: An application has been made for a new premises licence for Tesco in Weymouth. The application has been out to public consultation and has attracted relevant representations. A Licensing Sub-Committee must consider the application and representations at a public hearing.

Recommendation: The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of;

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

Reason for Recommendation: The Sub-Committee must consider the oral representations and information given at the hearing before reaching a decision.

1. Background

1.1 Section 4 of the Licensing Act 2003 sets out the duties of the Licensing Authority, it sets out that a Council's licensing functions must be carried out with a view to promoting the four licensing objectives of:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

1.2 All applications and decisions are made with due regard to the [Licensing Act 2003](#) (the Act), the [Revised Guidance issued under Section 182 of the Licensing Act 2003](#) (the Guidance) and the [Dorset Council Statement of Licensing Policy](#) (the Policy).

1.3 The relationship between planning and licensing is set out in paragraphs 6.2 to 6.5 of the Dorset Council Policy: -

The use of premises for the sale or provision of alcohol, regulated entertainment or late-night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.

In line with the S182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct. It will take into account what the impact of granting the application will be on the four licensing objectives.

2. **Details of the Application**

2.1 Tesco Stores Limited have applied for a premises licence at Tesco, 680 Dorchester Road, Weymouth, Dorset, DT3 5LD.

2.2 The description of the premises within the application form is: -

“Retail premises (supermarket) selling a range of goods and services. This includes the sale of alcohol for consumption off the premises. Sales of alcohol for consumption off the premises are made from the supermarket sales floor as shown on the enclosed plans”

2.3 The full application and the plans for the premises, as received, are attached at Appendix 1. The site location can be viewed on Appendix 3 taken from the Council’s Dorset Explorer page, showing the proximity of nearby residential properties.

2.4 The application is to permit: -

Late-night refreshment (Indoors)

Everyday 23:00 – 00:00

Off sales of alcohol

Everyday 06:00 – 00:00

3. **Representations from Responsible Authorities**

3.1. Section 13 of the Licensing Act 2003 contains the list of Responsible Authorities who must be consulted on each premises application. Dorset Police, Dorset and Wiltshire Fire Service, Public Health Dorset, the Immigration Authority, Dorset Council Trading Standards, Dorset Council Planning Department, Dorset Council Children’s Services and Dorset Council Health and Safety Team have all been consulted and offered no representations or comments on this application.

4. **Representations from Other Persons**

4.1. 51 representations have been received from members of the public. All the representations are expressing objections to the application, and these are included, in full, at Appendix 2 (page 97). Most of the representations received made comment on the need for this kind of store in the area, anti-social behaviour linked to the sale of alcohol, parking concerns and noise that would emanate from the increase of traffic. The concerns of need, parking or increased traffic would have been concerns for the planning process. They would have been taken into consideration during the premises planning application which the planning authority granted. The matters concerning anti-social behaviour must be taken into consideration under the procedures as set out in the Licensing Act 2003.

4.2. The Guidance sets out at 8.13 the role of “other persons”: -

“As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be ‘relevant’, in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.

4.3. The guidance states at paragraph 9.4 what a “relevant” representation is;
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“A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On

the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives.”

5. Considerations

- 5.1 Paragraphs 9.42 to 9.44 of the Section 182 Guidance sets how the Authority should decide what actions are appropriate.

“9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.”

6. **Financial Implications**

Any decision of the Sub-Committee could lead to an appeal by any of the parties involved that could incur costs.

7. **Climate Implications**

None

8. **Well-being and Health Implications**

None

9. **Other Implications**

Public Health and Community Safety

10. **Risk Assessment**

10.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

11. **Equalities Impact Assessment**

None

12. **Appendices**

- Appendix 1 – Application and plan
- Appendix 2 – Representations from ‘other persons’
- Appendix 3 – Site Location

13. **Background Papers**

[Licensing Act](#)

[Section 182 Guidance](#)

[Dorset Council Licensing Policy](#)