

LICENSING PANEL (445)

30th September 2008 at 10.00 a.m.

PRESENT: Councillors Simons, Stewart and Taylor.

OFFICERS: J. Secker - Clerk to the Panel (Solicitor)
A. Bacon - Licensing Manager's representative
C. Greatrex - Licensing Manager's representative
M. Robinson - Democratic Services Officer

58 ELECTION OF CHAIR (REF: 1)

Resolved: That Councillor Taylor be elected Chair of Panel No. 445.

59 MINUTES (REF: 4.1 AND 4.2)

Resolved: That the Minutes of the meetings of the Panel held on 12th and 24th August 2008 be taken as read, approved as correct records and signed by the Chair.

60 APPLICATION FOR GRANT OF PREMISES LICENCE – TESCO STORES LIMITED, UNIT 3, 336-340 DUNSTABLE ROAD, LUTON (REF: 8)

PRESENT:

APPLICANTS: Mrs P. Bishop (representing Tesco Stores Limited)
(Solicitor – Mr J. Bark)

OBJECTORS: Mr J. Khalid
Mr M. Akbar
(Barrister for Rabia Educational Trust – Mr P. Miller)

The Chair introduced the Members of the Panel to those parties present.

The Clerk to the Panel explained the procedure at oral hearings before the Council's Licensing Panel to those parties present.

The Licensing Manager's representative reported on an application by Tesco Stores Limited for the grant of a Premises Licence in respect of Unit 3, 336-340 Dunstable Road, Luton to allow supply of alcohol for consumption off the premises.

The Licensing Manager's representative reported that objections had been received from two interested parties. In addition, petitions had been received containing a total of 152 names. A number of petitioners were present at the meeting.

The legal representative for the Applicant advised the Panel that planning consent had already been obtained for the premises. This would be in the Tesco Express format, which were local convenience stores of less than 3,000 square feet. Opening hours would be 6 a.m. to 11 p.m. and the Applicants were seeking a premises licence for the same hours. This was in line with government guidelines.

He reminded the Panel that there had been no objections from statutory consultees, including the police.

He described some of the measures that Tesco employed to ensure alcohol was not sold to people who were intoxicated or under-age:

- The 'Think 21' policy whereby checkout staff challenged anyone purchasing alcohol who appeared to be under 21.
- A till prompt appeared when an alcoholic product was scanned at the checkout. The till was then locked under the operator approved the purchase.
- Point of sale material on the shelves where alcohol was displayed.
- The layout of the store was designed to minimise crime.
- Alcoholic products were located near the checkouts. Spirits were stored behind the checkout operators and were not accessible by the public.
- Posters in the staff room.
- Alcohol legislation was part of initial training and regular refresher courses. Staff were trained to watch out for 'proxy sales' where an over-18 would purchase alcohol for underage drinkers.
- There would be no separate deliveries of alcohol.
- Tesco had a policy of regular test purchases by members of staff from other stores who appeared to be under 21.
- Ensuring compliance with relevant legislation was part of the contract for both store managers and area managers.
- An express-format store would typically have 12 CCTV cameras. There would be fixed cameras monitoring the entrance, checkouts and shelves displaying alcohol. The positioning of the cameras would be decided in consultation with the police. All recordings were in digital format.
- At all times during opening hours there would be a minimum of three people on duty including at least one member of management.
- Tesco had a policy of encouraging police officers to come into their stores.
- Management carried out weekly risk assessments.
- Each store maintained a 'rogues' gallery' of those people banned from the store. If someone who was banned attempted to enter the store, the police were called.
- The store would initially have a security guard. If it was found that a guard was not required, no decision would be made until after conducting a risk assessment

The legal representative for the Applicant advised the Panel that Tesco had five stores in the Luton area and had a good record on underage test purchases by the Council. There had been one failure about 18 months ago at the Sundon Park store. Following this failure the Area manager had spoken to every member of staff. The store had subsequently been tested three times and had passed each test.

He also advised the Panel that objectors had appeared to give the impression that there were currently no other outlets in the area selling alcohol. There were in fact 15 other licensed premises, including one with a 24-hour licence. The police had not advised of any alcohol problems in the area. Nationally in Tesco stores alcoholic products accounted for about 5% of sales. Tesco wanted a licence so that they could offer a full range of products to their customers.

A Member commented that one concern of objectors was the possibility of raids on the store to steal large quantities of alcohol.

The legal representative for the Applicant responded that the main windows were of toughened security glass and that alcohol displays were not located near the frontage. Similar Tesco stores had security shutters that were lowered when the store was closed. However, neither representative for Tesco could confirm that these would be fitted at the application site.

The legal representative for the Rabia Educational Trust then presented the case for the Objectors. He reported that Rabia Boys' School was located immediately above the allocation site. In addition, located close to the proposed store entrance, was a side gate leading to the playground. This playground was used by both the Boys' School and the Girls' School located in Portland Road. The School were concerned that people might wander into the playground.

The Boys' School was open from 8.30 a.m. to 3.30 p.m. and from 4.30 p.m. to 8.00 p.m. Pupils were aged between 4½ and 15-16 years old. The School was concerned that parents would have to pass people who had purchased alcohol. Most pupils were collected by female relatives who arrived on foot.

He reminded the panel of the number of names on the petitions.

He advised that the Rabia Trust had no problems with alcohol elsewhere but did not want it available at this location.

A Member asked if the gate leading to the playground was secure so as to prevent members of the public entering the premises.

A member of the Rabia Trust advised although the gate was secure, there were times when it was open to let pupils in and out.

A Member commented that it was the responsibility of the school to ensure the security of the premises.

A Member commented that although the petitions contained 120 names there were a number of duplicate signatures.

Resolved: That consideration of this matter take place following consideration of the passing of a resolution to exclude the public and press from the meeting.

61 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 10)

Resolved: That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the public and press be excluded from the meeting during consideration of the decision in relation to the report of the Head of Environmental and Consumer Services as referred to at Minute No. 31/08 above.

62 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 10)

Resolved: That the public and press be no longer excluded from the meeting.

63 APPLICATION FOR GRANT OF PREMISES LICENCE – TESCO STORES LIMITED, UNIT 3, 336-340 DUNSTABLE ROAD, LUTON (REF: 8)

The Panel had carefully considered the papers before it including the written representations made by the Applicant and the written and oral representations made by the objectors

Resolved: (i) That the application by Tesco Stores Limited for the grant of a premises licence in respect of Unit 3, 336-340 Dunstable Road, Luton be **GRANTED** subject to compliance with the licensing hours of 6.00 a.m. to 11.00 pm each day for the supply of alcohol.

(ii) That security shutters be fitted to the frontage of Unit 3, 336-340 Dunstable Road, Luton before the commencement of sales of alcohol and that these shutters must be lowered during the hours that the store was not open for trading.

64 APPLICATION FOR VARIATION OF PREMISES LICENCE – STOCKWOOD PARK GOLF CENTRE, LONDON ROAD, LUTON (REF: 9)

PRESENT:

APPLICANTS: Mr Ledgerd

OBJECTORS: Mr S. Farmer
Ms K. Morris

The Chair introduced the Members of the Panel to those parties present.

The Clerk to the Panel explained the procedure at oral hearings before the Council's Licensing Panel to those parties present.

The Licensing Manager's representative reported on an application by Active Luton for the variation of a Premises Licence in respect of Stockwood Park Golf Centre, London Road, Luton. The requested variation was to increase the permitted hours and to enlarge the area covered by the licence to include a marquee adjacent to the Golf Centre.

The Licensing Manager's representative reported that objections had been received initially from the Police and from the Council's Environmental Health Department. The Applicant had agreed to accept the conditions requested by the Police. The Applicant had been unable to reach agreement with the Environmental Health Department over concerns about noise from the marquee.

The Applicant's representative advised that the marquee had been used since 2001 although originally it was within the grounds of the Stockwood Park museum. In that time, there had been no complaints about noise.

Some events held in the marquee were classified as 'family entertainment', which was not a licensable activity. However, Active Luton, who operated the site under a lease from the Council, preferred to operate under a licence. There had been two events in the marquee under temporary event notices; staff had monitored noise levels at these events and sound from the event was inaudible halfway down the drive leading to London Road.

The Technical Officer, Environmental Health Development, advised that the previous location of the marquee was 390 metres from the nearest dwelling. The current separation distance was 285 metres. He reported that the Environmental Health Department was currently trying to resolve noise problems at another premises with a 285 metre separation distance. It was possible that noise could be inaudible in the immediate locality but be audible further away.

He commented that if staff were in a noisy environment and then went outside to check noise levels, their perception of noise levels would be affected.

The Applicant responded that the member of staff who checked noise levels did not enter the marquee but was employed to check external security. The Applicant intended to place the speakers so that they did not face London road.

For the benefit of the Panel, the Clerk to the Panel and the Licensing Manager (in attendance) advised on what constituted 'unlicensed activities'.

Resolved: That consideration of this matter take place following consideration of the passing of a resolution to exclude the public and press from the meeting.

65 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 10)

Resolved: That in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the public and press be excluded from the meeting during consideration of the decision in relation to the report of the Head of Environmental and Consumer Services as referred to at Minute No. 31/08 above.

66 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 10)

Resolved: That the public and press be no longer excluded from the meeting.

67 APPLICATION FOR VARIATION OF PREMISES LICENCE – STOCKWOOD PARK GOLF CENTRE, LONDON ROAD, LUTON (REF: 9)

The Panel had carefully considered the papers before it including the written representations made by the Applicant and the written and oral representations made by the objector.

The Panel noted that the transmission of noise was unpredictable and therefore that it was not possible to determine in advance if the marquee would cause a noise nuisance to local residents. Therefore, the Panel were of the opinion that the licence should be granted for a limited period to allow any noise nuisance to be monitored. As a temporary licence could potentially be in conflict with the existing licence for the Golf Club building, the Panel were of the opinion that the temporary licence should cover only the marquee.

Resolved: That the application by Gabriel Ledgerd for the variation of a premises licence in respect of Stockwood Park Golf Centre, London Road, Luton relating to the use of the marquee be **GRANTED FOR A PERIOD OF 12 MONTHS TO EXPIRE 1st OCTOBER 2009** subject to compliance with the operating schedule submitted with the application. (Licensable activity and operating hours attached at Appendix 5/08 to these Minutes.)

(Note: The meeting ended at 12.35 p.m.)