

LICENSING PANEL (323)

10TH SEPTEMBER 2014 at 10.00a.m.

PRESENT: Councillors Hussain, Mead and Worthing

OFFICERS: C. Tobin – Clerk to the Panel (Solicitor)
Mernagh, Holly – Licensing Manager's Representative
J. Miller - Licensing Manager's Representative
Eunice Lewis – Democracy & Scrutiny Officer
Angela Fraser – Democracy & Scrutiny Officer

85. ELECTION OF CHAIR (REF: 1)

Resolved: That Councillor Hussain be elected Chair of this Panel.

86. MINUTES (NONE THIS TIME)

**87. APPLICATION FOR GRANT OF PREMISES LICENCE MORRISONS M. LOCAL
323 ASHCROFT ROAD, LUTON LU2 9AE (REF: 6)**

PRESENT:

APPLICANT: Morrisons M. Local

**APPLICANT'S
REPRESENTATIVE:** Kelly Nichols – Licensing Manager
Clare Johnson - Solicitor

INTERESTED PARTIES: Ron Boyle
Julie Cross
Cllr. D. Moles (Luton Borough Council)

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 received from WM Morrison Supermarkets PLC of Morrison's M Local, 323 Ashcroft Road, Luton, LU2 9AE for the grant of a premises licence that would allow the supply of alcohol consumption off the premises from Monday to Sunday 06:00 to 24:00 to take place.

The Licensing Manager's representative further reported that no representations had been received from responsible authorities however a representation had been received from a neighbouring occupier which was included in the report and related to concern of crime and disorder and public nuisance. She further advised that other premises licences should not influence the Panel's decision as each application should be considered on its merit.

Councillor D. Moles was present to speak as a ward councillor but was advised that under the Act and Regulations she was unable to make verbal representation as no written representation has been received from her. She was advised that she could assist members of her constituency who were present if nominated by them to do so.

The Applicant's representative, Clare Johnson, Solicitor, made her representation in support of the application and asked the Panel to consider the following key points which she said were vital to the application.

- The application is made for the main purpose of a convenience store that will focus mainly on fresh produce unique to Morrison's Stores.
- Morrison's has huge expertise in dealing with and managing the sale of alcohol around its premises with over 600 similar stores all over the UK.
- In all its applications Morrison's would consider Challenge 25, protection of children from harm and have regard to the 4 licensing objectives.
- It carries out comprehensive training and retesting of staff in line with processes and procedures required for the sale of alcohol.
- Morrison's install very comprehensive CCTV systems for the prevention of crime and disorder.
- The Previous owners had an alcohol license in operation.
- This particular application had received no objections from responsible authorities and no issues around the safeguarding of children and no additional conditions are proposed by the Police.
- The Panel should only consider reduced hours based on the Licensing objectives.
- The concerns raised by the interested parties are merely speculations and have not been supported by any responsible authorities
- Morrison's operates nationally and can manage any concerns relating to congregation and nuisance around its premises with impeccable licensing history.
- Should the speculations materialise with credible evidence, the authorities or interested parties can always call for the License to be reviewed.

The Panel questioned the Applicant's representative and he responded in compliance with the approved Procedure.

The interested parties present gave reasons for their objection to the grant of the application; including the loitering and congregation of youths which was already a concern for local residents in the area. The Panel heard that this had caused the Bedfordshire Police to issue a dispersal order in the area.

The Panel adjourned at 10.50am for a short break and resumed again at 11.15am.

The Clerk to the Panel advised Members of the Panel and all parties present on the points of law and asked that the Panel in their consideration of the matter should consider:

- Section 18 of the Licensing Act, which set out the steps which could be taken by the Licensing Authority.

- The 4 licensing objectives in the Licensing Act 2003.
- Further attention was drawn to the Operating Schedule, on page 6/4 of the Report relating to revision of the plans submitted with the application. The Panel were advised not to include this condition as allowing it was effectively giving the applicant permission to do anything they chose on the site
- That, if the evidence they have heard demonstrates that it is appropriate to do so, case law allows them to attach a condition to the licence regarding the opening hours of the premises.
- That the Panel should disregard anything that they have heard which is merely speculation.

All parties were then given the opportunity to comment on the legal points raised.

Members considered whether the public interest in retiring to make their decision in private outweighed the public interest in holding their deliberations in public, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

Following discussion by Members, the Panel determined that the public interest of retiring to make their decision in private outweighed the public interest in holding their deliberations in public.

88 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 6)

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 (Ref 6) as referred to in Minute No. 87/14.

89 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 6)

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

90. APPLICATION FOR GRANT OF PREMISES LICENCE MORRISONS M. LOCAL 323 ASHCROFT ROAD, LUTON LU2 9AE (REF: 6)

The Panel considered the papers before it including the oral representations made by the Applicant's representative. The Panel had regard to the licensing objectives set out in the Licensing Act 2003.

Resolved: (i) That the application received from WM Morrison Supermarkets PLC, in respect of Morrisons M Local, 323 Ashcroft Road, Luton LU2 9AE, for the grant of a Premises License to allow supply of alcohol for consumption off the premises Monday to Sunday 06.00 to 24.00 to take place be **GRANTED** in accordance with the Operating Schedule subject to the following modifications relating to wording in the Operating Schedule and the following added conditions:

- The sentence in Part M, Section (A) of the form be amended to read (The premises will be constructed and laid out in accordance with Drawing No. LUT/REF/05/SK4) as served with the application.
- That the CCTV system referred to in Section M, (b) of the Operating Schedule be extended to cover the whole of the area to the front of the store together with the car park area at the store

(ii) The Panel were satisfied that this additional condition would address the licensing objectives regarding prevention of crime and disorder and prevention of public nuisance which has caused the Police to issue a dispersal order in the area.

91. APPLICATION FOR GRANT OF PREMISES LICENCE TESCO STORES LTD, 4 EATON GREEN ROAD LUTON LU4 5HB (REF: 7)
PRESENT:

APPLICANT: Tesco Stores Ltd

APPLICANT'S
REPRESENTATIVE: Jeremy Bark
Associate Director
Berwin Leighton Paisner LLP

ALSO PRESENT Greg Bartley, Licensing Manager, Tesco

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 received from for Tesco Stores Ltd, 4 Eaton Green Road, LU4 5HB, for the grant of a premises licence that would allow the supply of alcohol consumption off the premises from Monday to Sunday 06:00 to 23:00.

The Licensing Manager's representative further reported that no statutory objections had been received other than the one included in the report which relates to concern of crime and disorder and public nuisance.

The Applicant's representative (Jeremy Bark) spoke on behalf of the Applicant in support of the application. The following points were made:

- Tesco's is a national retailer which sells alcohol as part of a broad offering of goods and services; and has held off-licences in their stores for many years and are approved by the British Institute of Inn-keeping as an examination centre.
- The spirits will be displayed behind the counter and sold in half bottle sizes;
- No statutory objections was received by the statutory agencies;
- Digital CCTV cameras will cover many areas of the shop floor such as: the main entrance, tills and alcohol areas;
- CCTV images would be made available for 21 days upon enforcement requests;

- There will be a member of management present in the store at all times during opening hours and between 7 and 8 staff working in the store;
- Management will receive training to support the running of the store adhering to all rules and regulations relating to public safety;
- The store will be an active member of the community and liaise with Police and enforcement authorities should the need arise;
- The store will comply with the 'Think 25' policy and be brought to customers attention at point of sale of alcohol;
- All staff will receive training on the corporate 'Think 25' policy to look at customers and 'think 25' before selling alcohol;
- All tills will have a prompt on initial sale of alcohol to remind staff of their responsibility not to sell alcohol to anyone under the age of 18;
- Signage will be displayed around the premises to inform staff and customers of the 'Think 25' policy on alcohol.

The Panel questioned the Applicant's representative and he responded in compliance with the approved Procedure.

The person who made the representation was not present.

Members considered whether the public interest in retiring to make their decision in private outweighed the public interest in holding their deliberations in public, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

Following discussion by Members, the Panel determined that the public interest of retiring to make their decision in private outweighed the public interest in holding their deliberations in public.

92 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

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 (Ref 7) as referred to at Minute No. 91/14.

93 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 (REF: 7)

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

94 APPLICATION FOR GRANT OF PREMISES LICENCE TESCO STORES LTD, 4 EATON GREEN ROAD LUTON LU4 5HB (REF: 7)

The Panel considered the papers before it including the oral representations made by the Applicant's representative. The Panel had regard to the licensing objectives set out in the Licensing Act 2003.

Resolved: That the application received from Tesco's Stores Ltd, 4 Eaton Green Road, Luton LU4 5HB for the grant of a premises licence, that will allow the sale of alcohol for consumption off premises, be **GRANTED** in accordance with

the operating schedule opening times from 06.00 hrs to 23:00 hrs Monday to Sunday, subject to the following conditions:

- That the CCTV images be retained for 31 days and be made available upon enforcement requests;
- That the CCTV be expanded to cover the outside areas of the premises to include the car park but not the highway.

The Panel was satisfied that the above conditions would address the concerns relating to the prevention of crime and disorder and the dispersal order which is already in operation in the area to meet the licensing objective of prevention of public nuisance.

The meeting ended at 12.41pm