

Date: 12 October 2009
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To: Members of the Licensing & Enforcement Sub-Committee
(Councillors: Graham Godbeer, Chris Gibbings, Ken Potter)
Remaining members of the Licensing and Enforcement Committee
for information)

Senior Licensing Officer
Assistant Solicitor
All parties to the hearing

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Meeting of the Licensing & Enforcement Sub-Committee

Tuesday 20 October 2009 at 9.30 am Council Chamber, Knowle, Sidmouth

Members of the public are welcome to attend this meeting. A hearing loop system will be in operation in the Council Chamber. Due to the requirements of the Licensing Act 2003 only parties to the hearing are permitted to address the sub-committee (through their representative as appropriate). Visitor car parking is available at the top of the drive outside the main reception area.

Visitors please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time.

A G E N D A

Page/s

1. To receive the minutes of the meetings held on 6 October 2009. 3 - 4
2. To receive any apologies for absence from Members of the Sub Committee.
3. To receive any declarations of interests relating to items on the agenda.
4. To consider any items which in the opinion of the Chairman should be dealt with as matters of urgency because of special circumstances.

(Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).

5. To agree any items to be dealt with after the public (including the press) have been excluded. (There are no items which the Officers recommend should be dealt with in this way).

6. Application for the grant of a premises licence under the Licensing Act 2003 to permit the provision of regulated entertainment, entertainment facilities and late night refreshment and the sale of alcohol for consumption both on and off the premises at Tesco Express, 4 – 6 Rolle Street, Exmouth

Members Remember!

- You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- Make sure you say the reason for your interest as this has to be included in the minutes.
- If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- You also need to declare when you are subject to the party whip before the matter is discussed.

Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. Parking is limited during normal working hours but normally easily available for evening meetings.

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Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee held at Knowle, Sidmouth on Tuesday 6 October 2009

Present: Councillors:
Graham Godbeer(Chairman)
Marion Olive
Mark Williamson

Also present: Councillor:
Chris Gibbings

Officers: Ian Carter – Senior Licensing Officer
Chris Lane - Democratic Services Officer
Giles Salter – Assistant Solicitor

Apologies Councillor:
Steve Hall
Ken Potter

The meeting started at 9.30 am and finished at 9.57 am.

*11 Minutes

The minutes of the meetings of the Licensing & Enforcement Sub Committee held on 11 August 2009, were confirmed and signed as a true record.

*12 Schedule of applications for Sub Committee approval where an agreed position has been reached and all parties have agreed a hearing is unnecessary

Consideration was given to the report of the Licensing Officer which set out a schedule of applications for Sub Committee approval where an agreed position had been reached and all parties had agreed that a hearing was unnecessary.

The Senior Licensing Officer explained the background of the application and the negotiations carried out.

RESOLVED that the application be granted as below, subject to the agreed positions set out in the schedule and any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for the variation of a premises	Holly Tree Inn ,161 Withycombe	Following mediation the applicant, 20 local residents and the Devon & Cornwall Constabulary have agreed that they consider a hearing to be unnecessary if the

licence	Village Road, Exmouth	<p>following agreed position is approved.</p> <p>That the proposed operating hours for the supply of alcohol be amended to 0900 hrs to 12 Midnight daily and the premises opening hours amended to 0800 hrs to 0030 hrs daily. The current non standard times for Bank Holidays and the New Years Eve extension to remain as per current licence.</p>
Recommended	Approval of application subject to the amended operating schedule.	

Chairman

Date

Agenda Item 6

Licensing & Enforcement Sub Committee

20 October 2009

Application for a premises licence to be granted under the Licensing Act 2003

Summary

The report summarises an application for a premises licence to be granted.

Recommendation

That members consider the application for a premises licence to be granted under the Licensing Act 2003 - To permit the sale of alcohol for consumption off the premises at Tesco, 4-6 Rolle Street, Exmouth, Devon, EX8 1HE.

a) **Reasons for Recommendation**

To comply with statutory processes.

b) **Alternative Options**

To either grant, refuse or modify the application.

c) **Risk Considerations**

None

d) **Policy and Budgetary Considerations**

The Council's Licensing Policy is referred to in the body of the report. There is a possibility of the Council having to pay the applicant's court costs if a successful appeal is brought against the decisions made today.

e) **Date for Review of Decision**

The council's decision may be appealed to the Magistrates Court. The Licensing Act 2003 also contains review provisions.

1 Description of Application

- 1.1 An application has been received from Tesco Stores Ltd for the grant of a premises licence at 4 – 6 Rolle Street, Exmouth, Devon, EX8 1HE.
- 1.2 The premises are currently vacant having previously been the Job Centre. It is the applicant's intention to refurbish the building as retail premises with the area for public trade on the ground floor.
- 1.3 The proposed timings and licensable activities applied for are produced in table form at Appendix A.
- 1.4 A plan of the premises will be available at the meeting to show the layout of the establishment and the areas of licensable activity.

Mediation Meeting

- 1.5 A mediation meeting chaired by the Licensing Authority and attended by the Applicants and the Interested Party was held at Exmouth Town Hall on 7 October 2009. All matters of the application and representations were discussed but no agreed position was reached.

2 Statutory Bodies' Response

- 2.1 Devon & Cornwall Constabulary
No Representations received.
- 2.2 Devon Fire & Rescue Service
No representations have been received.
- 2.3 Area Child Protection Committee and Local Safeguarding Children Board
No representations have been received
- 2.4 Devon Trading Standards
No representations have been received
- 2.5 East Devon District Council, Environmental Health Service
No representations received.
- 2.6 East Devon District Council, Planning & Countryside Service
No representations have been received

3 Representations and Responses to Notices of Hearing

- 3.1 A representation was received from one interested party being a person involved in a business in the vicinity of the premises. Details of the representation are attached at **Appendix B**.
- 3.2 Details of the response to the statutory Notice of Hearing are attached at **Appendix C**.

4 Proposed Operating Schedule and Designated Premises Supervisor

- 4.1 The applicants have prepared an Operating Schedule setting out the steps they propose to take to promote the licensing objectives. A copy of the proposed Operating Schedule, numbered for ease of reference is attached at **Appendix D**.
- 4.2 The proposed Designated Premises Supervisor identified in this application is Greg Bartley. Mr Bartley holds a personal licence reference HARLOW/PERS/0094 issued by Harlow District Council.
- 4.3 There is however a pending application to change the Designated Premises Supervisor, should the licence be granted, to the new store manager Colin Stevens.

5 Relevant Licensing Policy Considerations

Licensing Objectives

- 5.1 Section 2.1 of the Policy states: 'The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives.' These objectives are the only matters to be taken into account in determining the application and any conditions attached must be necessary to achieve the licensing objectives.
- 5.2 Section 2.2 of the Policy states: A licence will only be granted where the licensing authority is satisfied that these objectives have been met.
- 5.3 Section 2.3 of the Policy lists the kind of measures the licensing authority will be expecting to see taken into account to promote the objectives.

- 5.4 Section 2.9 of the Policy states: The licensing authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.

Conditions

- 5.5 Section 4 of the policy sets out what the Sub Committee should consider before imposing conditions on a licence.

- 5.6 The **Guidance** issued under Section 182 Licensing Act 2003 also states:

The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.

It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned.

Licensing authorities should therefore ensure that any conditions they impose are only those which are necessary for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose.

Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for the licensing objectives. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties.

5.7 **Cumulative Impact**

Section 5.1 of the policy states: The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the licensing authority can take into account. This should not however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

Section 5.2 of the policy states: The licensing authority may receive representations from either a responsible authority or an interested party that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type, making it a focal point and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application. The onus is on any person or organisation making such representations to prove any assertion that the addition of the premises concerned would cause the cumulative impact claimed

The **Guidance** issued under Section 182 Licensing Act 2003 also states:

There can be confusion about the difference between "need" and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel. This is not a matter

for a licensing authority in discharging its licensing functions or for its statement of licensing policy. "Need" is a matter for planning committees and for the market.

It would normally not be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will usually address the impact of a concentration of licensed premises selling alcohol for consumption on the premises.

Statements of licensing policy should indicate that shops, stores and supermarkets, are free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there. Statements of licensing policy should therefore reflect this general approach.

Licensing Hours

- 5.8 Section 6.1 of the Policy states: The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence with licensing hours beyond midnight higher standards of control will generally need to be included in operating schedules to promote the licensing objectives especially for premises which are situated near residential areas. There is no presumption within the legislation for longer opening hours and the licensing objectives are paramount in any consideration of an application.
- 5.9 Section 6.3 of the Policy states: The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required.
- 5.10 Section 6.5 of the policy states: Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

6. Observations

- 6.1 The application being considered is for the grant of a Premises Licence to permit :
- the supply of alcohol for consumption off the premises
- 6.2 A Representation has been received from an interested party who believes that if the licence is granted it will fail to promote one of the four licensing objectives being 'the prevention of crime and disorder'.
- 6.3 The representation received expresses an opinion that a business selling alcohol is not needed in the Rolle Street area of Exmouth as there are already an adequate number of shops and pubs to cater for the public in that area. The interested party is also concerned that in his opinion Tesco has an irresponsible attitude towards the promotion of cheap alcohol sales and will not be able to control the sale of alcohol to underage youngsters. He states that the addition of this new store selling alcohol between 6:00 am and 11:00 pm daily will contribute towards the current problem of underage drinking in the area.
- 6.4 Attached at **Appendix G** is a list of off licensed premises showing licensing hours in the locality of the proposed new Tesco store.

6.5 The Sub Committee will now need to consider whether to grant this application as it stands or in the light of the representations to refuse the application or grant it in a different form. To assist the Sub Committee a set of conditions have been prepared at **Appendix E** that members may wish to consider having heard from both the applicant and the interested party. The conditions are suggested to replace those offered by the applicant with conditions that reflect the applicants intentions but offer a more concise and enforceable operating schedule.

6.6 A location plan is attached at **Appendix F**.

Legal Implications

1. As relevant representations have been made in respect of the application, this hearing must be held. (Relevant representations are about the likely effect of the grant of the application on the promotion of the licensing objectives, by interested parties or responsible authorities). The sub-committee must disregard any information or evidence not relevant to the licensing objectives.
2. The sub-committee must consider this application in accordance with Section 4 of the Licensing Act 2003, which requires that licensing functions must be carried out with a view to promoting the four licensing objectives. The licensing authority must also have regard to its own licensing policy and the Secretary of State's guidance, but may depart from both if it has good reason to do so. Those reasons should be stated.
3. Section 18 of the Act requires the licensing authority to grant a premises licence unless it considers additional steps are needed for the promotion of the licensing objectives having regard to any relevant representations.

The steps are:

- (a) to grant the licence subject to:-
 - (i) the conditions in the operating schedule modified to such extent as members consider necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under sections 19, 20 or 21 be included in the licence;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates
- (c) to refuse to specify a person in the licence as the premises supervisor
- (d) to reject the application.

The conditions of the licence are modified if any are altered or omitted or any new condition is added. Different conditions may be applied to different parts of the premises, and to different licensable activities. The sub-committee must give its reasons for its decision to take any of these steps. Similarly, if any part of an application is rejected, the sub-committee must give its reasons.

4. The Act requires mandatory conditions to be imposed where supplying alcohol or exhibiting films are approved as licensed activities. It also requires a mandatory condition to be imposed where door supervisors or other individuals carrying out security activities are conditions on the licence.

(a) Section 19 - Mandatory conditions relating to the supply of alcohol

No alcohol may be supplied unless there is a designated premises supervisor who also holds a personal licence.

Every supply of alcohol under a premises licence must be made or authorised by a personal licensee

(b) Section 20 - Mandatory condition relating to exhibition of films-not relevant in this case

Children may only be admitted to films in accordance with the classification recommendations of the British Board of Film Classification, or as recommended by the licensing authority.

(c) Section 21 - Door Supervision

Where door supervisors are specified by condition, those individuals must be licensed by the SIA.

5. The sub-committee will need to consider the hours of operation proposed in relation to the licensable activities in the light of the promotion of the licensing objectives, the effectiveness of the operating schedule proposed by the applicant, the representations received, the location of the premises in relation to residential and other commercial properties including other licensed premises, the history of the management of the premises and how it is proposed to be run in the future, the evidence produced of any problems in the past, and the likely impact of any extension of hours and activities. These issues, and any other relevant ones, may be explored at the hearing.

6. Human Rights Act 1998

- 6.1 The sub-committee must also have regard to the provisions of the Human Rights Act 1998 when determining this application. The 1998 Act made the European Convention of Human Rights directly enforceable in British courts. The relevant provisions are Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 11 (freedom of association) and Article 1 of the First Protocol (right to peaceful enjoyment of one's possessions). These provisions are explained below. Essentially, they require the sub-committee to identify correctly the competing interests, give each appropriate weight in the circumstances of the case, and balance them against each other in order to arrive at a fair and reasonable decision.
- 6.2 Under Article 6, "everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law". The procedures established by this Council for hearings under the Licensing Act 2003 are compliant with Article 6.
- 6.3 Under Article 8, "everyone has the right to respect for his private and family life, his home and his correspondence". This right may not be interfered with except in accordance with the law and as may be "necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others". In Licensing Act cases this means that the sub-committee must have regard to the effect of its decisions on local residents, and balance their interests against those of the public at large (e.g. the customers of the premises under consideration) and the people operating the business from the premises.
- 6.4 Under Article 11, "everyone has the right to freedom of peaceful assembly and to freedom of association with others" except where it is lawful to restrict that freedom in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others". In Licensing Act cases this means, for example, that the sub-committee is entitled to impose conditions to ensure that patrons of licensed premises do not unreasonably disturb others living or working nearby. Again, the sub-committee should balance the competing interests.

6.5 Article 1 of the First Protocol (that is, the first amendment to the Convention) says that every natural or legal person (meaning a human being or a company) is entitled to peaceful enjoyment of his possessions, except where the law provides for restrictions on that right in the public interest. This means, for example, that it is compliant with the Convention to impose restrictions, such as those provided in the Licensing Act 2003, upon business premises where it is in the public interest to do so. On the other hand the same applies to the owners and occupiers of neighbouring premises.

7. Appeals.

If the sub-committee imposes conditions on the licence with which the applicant disagrees, or modifies the licensable activities permitted or refuses to specify a person as a designated premises supervisor, he or she may appeal within 21 days of notification of the decision to the Magistrates' Court. The applicant may also appeal if an application for a premises licence is rejected. Those making relevant representations may appeal if they believe that the licence should not have been granted, or that, when granting the licence, the licensing authority ought to have imposed different or additional conditions or excluded a licensable activity or refused to specify a person as a designated premises supervisor. The magistrates' court may dismiss the appeal, or substitute its own decision, or send back the case to the licensing authority with directions as to how the case is to be dealt with. The magistrates' court may make any costs order it thinks fit.

8. Review provisions.

If extended hours/licensable activities are granted, the Licensing Act contains review provisions which enable those living or running businesses in the vicinity of the premises, bodies representing them or any of the responsible authorities to apply to this licensing authority for a review of the licence. A hearing follows which enables the sub-committee to use the normal powers at a hearing (set out above) but also to suspend the licence for a period of up to three months or to revoke it.

9 Police Closure

A senior police officer may close any premises for 24 hours (this can be extended) where so/he reasonably believes there is or is likely imminently to be disorder on, or in or in the vicinity of the premises and their closure is necessary in the interests of public safety. Closure can also be effected if public nuisance is being caused by noise coming from the premises and closure of the premises is necessary to prevent that nuisance

Financial Implications

No apparent financial implications

Appendices

- Appendix A - Requested times and activities in table form
- Appendix B - Details of representations received
- Appendix C - Details of responses to the Notice of Hearing
- Appendix D - Applicants proposed Operating Schedule
- Appendix E - Items for consideration
- Appendix F - Plan
- Appendix G - Details of similar licensed premises in the local area

Background Papers

- Licensing Application dated 24 August 2009

□ The District Council's Statement of Licensing Policy

Neil McDonald ext 2079

Licensing & Enforcement Sub Committee



Proposed timings

	m) sale of alcohol for consumption off the premises	Hours premises are open to the public
Monday	6.00 am - 11.00 pm	6.00 am - 11.00 pm
Tuesday	6.00 am - 11.00 pm	6.00 am - 11.00 pm
Wednesday	6.00 am - 11.00 pm	6.00 am - 11.00 pm
Thursday	6.00 am - 11.00 pm	6.00 am - 11.00 pm
Friday	6.00 am - 11.00 pm	6.00 am - 11.00 pm
Saturday	6.00 am - 11.00 pm	6.00 am - 11.00 pm
Sunday	6.00 am - 11.00 pm	6.00 am - 11.00 pm

Tesco, Rolle Street, Exmouth

1. Mr P Rainbird – 10 Shakespeare Way, Exmouth, EX8 2RS	
Objective	Representations
Prevention of Crime & Disorder	Tesco, like many other supermarkets have an irresponsible attitude towards the promotion of cheap alcohol and due to the size of their operation they are unable to control the sales of alcohol like the current smaller premises in the town. For some time the town has suffered with a problem of underage drinking and the many businesses in the town have worked hard to make it difficult for the underage drinkers to obtain alcohol. The introduction of a business selling alcohol from 6.00am to 11.00pm each day will be of no benefit to the town and will only help contribute to the current problems being suffered. Exmouth town centre currently has an adequate number of shops pubs and clubs to provide for the requirements of the public.

Tesco, Rolle Street, Exmouth - Responses to Notice of Hearing

Applicant

Tesco Stores Ltd, Delamare Road, Cheshunt, Waltham Cross, EN8 9SL	
Hearing Unnecessary	No
Attending	Yes
Represented by	
Supporting documents	None
Permission requested for attendance of	Solicitor (TBC) BLP LLP Adelaide House, London Bridge EC4R 9HA
Summary of key points	No

Responsible Authorities & Interested Parties

1.	Mr P Rainbird, 10 Shakespeare Way, Exmouth, Devon, EX8 5SW
Hearing Unnecessary	-
Attending	Yes
Represented by	-
Permission requested for attendance of	N/A
Supporting documents	Attached
Summary of key points	No



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BREAKING: Retailers slam minimum pricing

Tesco stores struggle to "Think 21" when selling alcohol

Wednesday, 16 April 2008

Tesco stores are struggling to comply with the retailer's own "Think 21" policy designed to combat underage sales of alcohol, according to figures obtained by Talking Retail.



An internal memo to store managers reveals that only 62% of Tesco stores passed the most recent internal test purchasing initiative designed to check whether the policy is working.

Checkout staff are supposed to ask people who appear to be under 21 for ID before selling them alcohol.

But the memo reveals that only Tesco Metro stores improved their results during the period, with an 88% pass rate.

Tesco Extra stores passed in 64% of cases and Express stores in 63%.

But only 56% of superstores in the South passed the test purchasing initiative and less than half of superstores (44%) in the North.

The memo warns store managers: "If these were external results, stores would be in great danger of losing the ability to sell alcohol...It is vital that all your cashiers and checkout trained staff always 'Think 21' when selling alcohol."

Tesco told Talking Retail: "We dedicate substantial resources to improving our Think 21 policy. This means that anyone who looks under 21 and does not have appropriate ID will not be sold alcohol in our stores."

And it stressed: "These results are NOT test purchases. They relate to an internal initiative looking at how many customers are asked to provide proof-of-age ID by staff at the tills."

"All the mystery shoppers involved in this process were 18 years old or over and the results give us an insight into the areas where we could further improve our policy and support our staff in tackling under-age sales."

The warning that stores could lose their alcohol licences is thought to have been a scare tactic, aimed at shocking managers into action.

A Tesco spokesman said the retailer "did very well on underage test purchasing".

Tesco Express outlets tended to be more problematic than superstores, as staff in the smaller convenience stores had only a handful of colleagues to back them up when refusing underage sales and could feel intimidated, he added.

But one cashier who contacted Talking Retail claimed his store manager was deliberately allowing alcohol to be sold to underage young people.

"I have not been told to be more careful at the till - no-one has - and I see young people get alcohol all the time," the cashier said.

RELATED ARTICLES

- 16 Apr 2008 - Budgens trials facial recognition to fight underage sales
- 09 Apr 2008 - 44,000 pints of alcohol seized in underage crackdown

Comments (6)

- Show/Hide comments
- NotDan said:



... Dan, the law says nothing about having to ask for ID if someone looks under 25. The law also doesn't say that other people who are with someone buying alcohol must be ID'd.

If one can justify their genuine belief that someone is over 18 when selling them alcohol they have done nothing wrong.

The whole thing is a nonsense. It is not logical to believe so, nor

DEBATE

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"I'm kept busy running the store and rely on Independent Retail News to keep me informed on what is happening in our industry."
Les Watt, Manager, Festival Store, Edinburg

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- Spar store wins first International Convenience Retailer of the Year Award
- Convenience retailers oppose Welsh carrier bag 'tax'

EVENTS CALENDAR

<< SEPTEMBER 2009 >>

Mon	Tue	Wed	Thu	Fri	Sat	Sun
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

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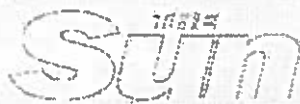
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Crackdown ... Tesco has been fined

By BEN ASHFORD

Published: 27 Mar 2009

ADD YOUR COMMENTS

TESCO has been fined £6,000 for selling booze to kids in a landmark case - and will now ask all customers who look under 25 for ID.

For the first time a company rather than an employee was prosecuted, under the Violent Crime Reduction Act.

Britain's biggest supermarket chain yesterday ordered staff at all 2,184 stores to raise its ID checks to people looking under 25. It was previously set at 21. A spokesman said customers with no ID "will not be sold alcohol."

Tesco admitted "persistently" selling drink to youngsters at a branch. Staff were caught three times in a sting operation within a month in Blackpool.

Local JPs handed out the fine and imposed a 28-day suspension of selling booze at the store. But that was lifted pending an appeal.

Broken Britain campaigner Sylvia Lancaster, who's daughter Sophie was murdered by drunk teens, blasted Tesco

b.ashford@the-sun.co.uk

By HELEN NEWLOVE (WIDOW OF GARRY NEWLOVE WHO WAS KICKED TO DEATH BY BOOZE-CRAZED YOBBS)

WE don't need surveys to tell us that teenage drinking is at epidemic levels.

It's right that Tesco should carry the can, but a £6,000 fine is inadequate. Tesco probably earns that in seconds.

And we can't just blame them. Adults must tell kids it's not OK to get wasted.

REVIEW OF THE WEEK



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3

A convenience retailer

Dear Mr Oyler

**Representations and Provision of Information on
Matters Relevant to the Inquiry**

Thank you for your letter of 16th May 2006. I write to comment on the OFT's decision document and to provide evidence which I believe provides clear support in favour of a reference to the Competition Commission for an investigation into the supply of groceries by retailers in the United Kingdom.

My company operates over 100 stores in the UK, all of which are licensed to sell alcohol and all of which are under 285 square metres in size. We sell general groceries as well as alcohol. We undertake supply negotiations direct with alcohol manufacturers and distributors such as Carlsberg Tetley Ltd and Diageo Ltd.

It has become clear to me during the three years that I have been Managing Director of the company that there are 2 particular features of the 4 large supermarkets in the UK grocery market that prevent, restrict and distort competition in the alcohol category - Below Cost Selling and Disproportionate Buying Power. Below Cost Selling in my view also represents irresponsible retailing of alcohol in the large supermarkets as the selling price is so far below cost it will attract heavy drinkers and under-age drinkers to the stores and encourage binge drinking. I know that the latter comment is outside of the brief of the proposed market investigation but it does put into context the extreme pricing levels. For example, half a pint (approximately 280ml) of Stella Artois is about £1.75 in an average British pub, at the large supermarkets the same product is currently just 40 pence for a 284ml bottle.

As you will see from the following, this is well below the cost of getting the product to the consumer and well below what would be termed in the off-licence trade as a normal price even for a product that is being specifically promoted under a "Hi-Lo" pricing policy.

Feature 1 - Below Cost Selling

The OFT has already identified examples of below cost selling in the large supermarkets but there follows three current examples of supermarket retail pricing being well below the delivered wholesale cost.

1. ASDA, Tesco, Morrisons and Sainsbury are all offering, today, 2 cases of 20 bottles or cans of lager and/or cider for £16. The choice of packs at ASDA follows as an example with the cost price per case from a wholesaler in brackets. It costs roughly £1 per case to deliver a case of beer or cider from the wholesaler to an independent or multiple specialist store and I have added £1 to recently quoted prices. There is no difference in manufacturing or delivery cost of a case of beer between a wholesaler and a large supermarket's central distribution system. There may be a difference in the cost of delivery on to individual shops but these will be relatively small

- 20-pack of Stella Artois lager 284ml bottles (£8.59 cost inc VAT delivered)
- 20-pack of Fosters lager 440ml cans (£9.17 cost inc VAT delivered)
- 20-pack of Carlsberg lager 440ml cans (inc VAT delivered)
- 18-pack of Strongbow cider 440ml cans (inc VAT delivered)
- 20-pack of Budweiser lager 300ml bottles (inc VAT delivered)

A normal retail price for any of the cases above would be about £10.99 per case. At the large supermarkets the consumer may choose any 2 of the above and pay a retail price of £16 or £8 for each case which works out at 40 pence for each 440ml standard can of standard strength lager and 40 pence per bottle for each standard bottle of premium strength lager. The usual price for a single can of standard strength lager in the UK is between 95 pence and 99 pence.

2. Tesco Value Whisky retails at £6.86 per bottle. Excluding VAT and excise duty, the price the customer is paying is 36.8 pence per bottle, equivalent to £4.41 per case of 12. The best price available from a wholesaler for a low cost whisky excluding VAT and excise duty is £8 per case so the selling price in Tesco excluding VAT and excise duty is 55% below the wholesale cost price on this product
3. Tesco Pavlov Vodka retails at £6.23 per bottle. Excluding VAT and excise duty, the price the customer is paying is 17 pence per bottle, equivalent to £2.06 per case of 12. The best price available from a wholesaler for a low cost vodka excluding VAT and excise duty is £4 per case so the selling price in Tesco excluding VAT and excise duty is 52% below the wholesale cost price on this product.

Of course, it may be that the large supermarkets are not selling below cost but simply passing on to customers huge discounts available specifically to them because of their huge buying power but it has to be borne in mind that the cost to manufacture and deliver a single palletised container of beer, vodka or whisky to a wholesaler is exactly the same as the cost to deliver to the central warehouse of any of the 4 large supermarkets - Tesco, ASDA, Sainsbury's and Morrisons. The huge disparity in retail pricing between the above examples and normal pricing cannot be explained by lower buying costs due to a larger scale of operations.

In the past there has been strong, healthy competition on price amongst local multiple off-licence specialists, small independent stores and convenience stores on alcohol. This and short-term promotions on certain products has combined in the past to produce great value for local shoppers. However, the bizarre below cost pricing behaviour of the large supermarkets which tends to be concentrated around seasonal festivities such as Christmas and big televised occasions such as the World Cup restricts local competition because there is no point trying to compete with such predatory pricing behaviour.

Over time small, local shops cannot be profitable in a distorted market and are going out of business - further reducing competition at the local and national level. During these periods of extreme below cost pricing, so called top-up shopping is extremely limited on beer because consumers quite rightly stock up at the large supermarkets at the ridiculous price levels and make special trips, attracted by huge palletised displays of beer in the foyers of large supermarkets backed by TV and poster campaigns. Beer represents about 25% of a local off-licence's sales and beer shoppers will of course buy other products in store. The effect of the short-term, predatory pricing behaviour on smaller stores is very evident from the huge swings in alcohol market share towards the big supermarkets during these periods.

The distortion of the beer market is further demonstrated by the fact that all of the big supermarkets move to the same below cost pricing levels with virtually identical pricing offers on virtually the same day.

Finally, in terms of proportionality, the large supermarkets have a dominant share of the off-licence trade in the UK which means that a huge proportion of beer sold during these bouts of below-cost selling is sold below cost price in the major supermarkets

Feature 2 - Disproportionate Buying Power

It is clear from my many discussions with manufacturers and UK distributors of alcohol that they are as exasperated as anybody at the bizarre pricing behaviour of the large supermarkets on alcohol. The pricing undermines branded suppliers' attempts through advertising to position their brands (for example, InBev UK's attempts to position Stella Artois as 'reassuringly expensive') and they are clearly under extreme pressure from the large supermarkets to give extra financial incentives to reduce the impact on the supermarkets of the below-cost selling. For example, ASDA has recently asked all suppliers to give extra, substantial one-off payments simply to remain on the list of suppliers.

The extreme level of buying power in the multiples also adds to the cost of manufacturing as the supermarkets demand more and more 'specific packs' to help reduce the impact on their alcohol profitability eg 15 packs, 18 packs, 20 packs of beer which increases the number of change-overs on production lines, reducing efficiency of production and adding to packaging costs, storage costs and delivery costs.

Although evidence can only be anecdotal, there is a huge body of opinion amongst smaller, local businesses that delivered costs to wholesalers are being increased by manufacturers to help subsidise cost reductions to the large supermarkets. There are also clear reductions in the level of service from suppliers to smaller businesses. For example Tesco demanded extra, free resource from suppliers at busy times to help stack shelves and during the implementation of a new bill payment system at Tesco, the account manager of one of our key suppliers was simply unavailable to us for several months for the specific reason that he was spending 100% of his time at Tesco during that period.

Of course, because of the huge dependence that manufacturers have on the custom of the large supermarkets, it is very difficult for them to be critical in any way of their behaviour. Frankly, I am amazed that there has been no action thus far by central government to curb some of the bizarre pricing behaviour of large supermarkets in relation to alcohol products and a referral to the Competition Commission is long overdue. I hope and trust you will take my observations and comments into account and look forward to the outcome of your investigations. Meanwhile, don't hesitate to ring me for clarification of any point or to discuss the matter further.

Yours sincerely

(A)

Residents opposing Tesco alcohol licence bid

Oct 23 2008 (<http://www.walesonline.co.uk/news/wales-news/2008/10/23/>) by Abby Alford
(<http://www.walesonline.co.uk/authors/abby-alford/>), South Wales Echo



RESIDENTS are objecting to a supermarket's bid to sell alcohol, because they fear an escalation of booze-fuelled disorder.

One couple has told Cardiff council "drunken students" already vomit and leave beer cans on their driveway and they believe the problem will get worse if a Tesco licence application is approved.

Cardiff North MP Julie Morgan is backing her concerned constituents and is urging the authority to reject the request.

A new Tesco Express is due to open on North Road, Gabalfa, Cardiff, next month and the company has applied to sell alcohol between 8am and 11pm every day.

In its application to the council's licensing sub-committee, the supermarket said it takes its legal obligations as a supplier of beer, wines and spirits seriously.

"We have written training policies and formal training programmes are in place, which ensure our people are equipped to meet all licensing objectives," the company said in its application.

Tesco also said it will be installing CCTV at the new store and staff will be reminded not to sell alcohol to anyone under 18.

But David and Elizabeth Lewis, of Parkfield Place, Gabalfa, are among the residents who have lodged objections with the licensing sub-committee ahead of its consideration of the application on Friday, October 31.

In an e-mail to the committee Mrs Lewis said there is already a pub and a corner shop in the area selling alcohol and she believes a third outlet is not needed.

She said: "Don't you think we have enough problems with drunken students? We often find empty cans on our drives or if we are really lucky, somebody's sick."

Another resident, Michael Franks, of Canada Road, has told the licensing sub-committee: "This is yet another step in the wrong direction towards engulfing the area with more alcohol provisions."

And Kumar Gosalia, of North Road, has submitted a "strong objection" to the licensing committee, adding: "I feel that the level of anti-social behaviour will

increase. If there are any more off-licences in this area it will cause further crime for local residents and the people passing by.”

In a letter to the committee, Mrs Morgan said: “I share my constituents’ concerns about this application in that there are already a number of outlets in the area that are licensed to sell alcohol – in fact there is one of the biggest Tesco stores in Cardiff situated within a mile of this new proposed store – and I fail to understand why the company feel the need to operate another licensed premises.”

abby.alford@mediawales.co.uk

(<http://ad.uk.doubleclick.net/click;h=v8/38b8/0/0/%2a/z;44306;0-0:0;26985176;31-1/1;0/0/0;;~aopt=2/1/1/0;~sscs=%3f>)

the No Mill Road Tesco Campaign

Campaigning against Tesco's presence in the creative and cultural heart of Cambridge.

- [News](#)
- [Contacts](#)
- [E-mail list](#)
- [FAQs](#)
- [Newsletter](#)
- [Petition](#)
- [Planning applications](#)
- [Posters/leaflets](#)
- [Resources](#)
- [Take action!](#)
- [Timeline](#)

Archive for the 'alcohol' Category.

CEN article: Tesco fails to win licence for drinks

18th August 2009, 12:00 pm

john.downing@cambridge-news.co.uk



TESCO'S new store in Mill Road will open without booze after city councillors rejected its application for a drinks licence.

The licensing sub-committee's decision yesterday was greeted by loud applause from campaigners who had fought the supermarket giant's plans every step of the way.

Ruth Deyermond, planning coordinator of the No Mill Road Tesco campaign, hailed the decision "a victory for common sense and the community".

Solicitor Jeremy Bark put the case for Tesco's application, saying the store would open "in any event" on August 26.

Tesco sought a licence to sell alcohol from 10am-10pm seven days a week.

He said 7 to 8 per cent of the sales at a typical Tesco Express are alcohol and the company had a "good history of working with police" to ensure all sales were legal.

Cambridgeshire police opposed the application, arguing further alcohol sales would exacerbate alcohol-related problems.

The Mill Road area was designated a "cumulative impact zone" in May 2008, meaning new applications would normally be refused unless the applicant could show it would not add to drink-related trouble.

Insp Marcia Nichols said the area suffered a "disproportionate" level of alcohol-related trouble and was already a "hotspot for violence".

Dr Deyermond, speaking on behalf of the No Mill Road Tesco campaign, told the meeting the application was "totally inappropriate" in a cumulative impact zone.

Janette Evely, a parent from Argyle Street and a teacher at St Philip's Primary School, said pupils often encountered antisocial behaviour related to street drinking, and Mill Road did not need another outlet selling drink.

Cllr Mike Dixon, sub-committee chairman, announced the application was rejected for its failure to adequately address the cumulative impact policy and the council's planning policy.

Dr Deyermond said: "We think this is a victory for common sense and the community."

Insp Nichols said: "The issue was never about Tesco. The increase in sales of alcohol by any premises would have had a detrimental impact."

A Tesco spokeswoman said: "We are disappointed but are looking forward to opening the store on August 26 as planned."

Cambridge Evening News, 18/08/2009

Category: [CEN](#), [Media coverage](#), [alcohol](#) | [Comments Off](#)

Tesco Mill Road alcohol licensing meeting

15th August 2009, 01:32 pm



The decision whether to allow Tesco to sell alcohol on Mill Road, an area with a known alcohol problem and recently designated as a alcohol Cumulative Impact Zone, will be decided this week.

The meeting is at 10am on Monday 15th August 2009, at the Guildhall. The meeting is open to all, and we encourage NMRT supporters to attend if they are not at work that day.

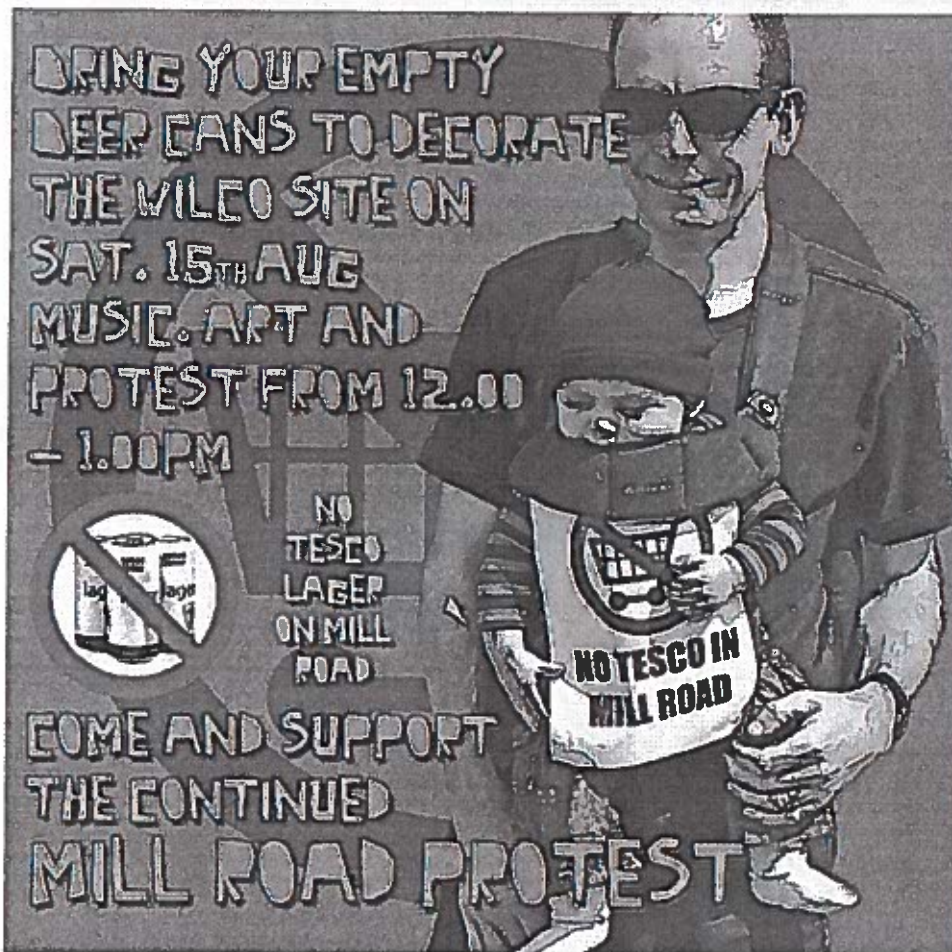
The police have objected, and engaged a lawyer to write their objection.

There have been 120 representations submitted about Tesco's application.

Category: Uncategorized, alcohol | Comments Off

Artistic response to Tesco's licensing application

13th August 2009, 03:39 pm



Saturday 15th August, 12-1pm will see another event outside the Wilco site. We will be continuing to put pressure on the council to act but also raising awareness about the Tesco's application for an alcohol licence (which is due to be heard on Monday at the Guildhall at 10.00am).

We would ask you to come along and dress the fence with us between 12 and 1pm, bringing with you empty beer cans to form part of our artistic intervention.

Please come and make your voice heard in an artistic and legal way!

Category: Events and meetings, alcohol | Comments Off

Tesco want to sell alcohol on Mill Road

8th July 2009, 11:33 am

Many of you will know that Tesco have recently applied for a licence to sell alcohol on Mill Road. We hope that you will share our view that they should not be granted an off licence, and this email is to inform you what you can do to help stop the licence being awarded.

Please send in your objections to the licensing officers at the council:

Email:
licensing@cambridge.gov.uk

or write to:
Licensing Department (Alcohol Licences)
Environmental Services
Cambridge City Council
PO Box 700
Cambridge
CB1 0JH

Please entitle your letter/email 'Representation regarding Tesco's application for an off licence on Mill Road'. [There is no reference number]. Please also make sure you include your address, so the council know you are a local resident.

The consultation period ends on 23rd July 2009, so please make sure your objections are received before that date.

Please copy it to your local councillors, whose contact details are listed below:

Romsey (which is the ward containing the premises):
Catherine Smart <chlsmart@cix.co.uk>,
Sarah Ellis-Miller <sarah.ellis_miller@ntlworld.com>,
Raj Shah <raj.shah@cambridge.gov.uk>,

Petersfield (which Mill Road is also part of):
Ben Bradnack <ben.bradnack@cambridge.gov.uk>,
Kevin Blencowe <kevin.blencowe@cambridge.gov.uk>,
Lucy Walker <lucy.walker@cambridge.gov.uk>,

Coleridge:

Jeremy Benstead <j.benstead@cf-uk.co.uk>,
Lewis Herbert <Lewis.Herbert@cambridge.gov.uk>,
Chris Howell <chris.howell@cambridge.gov.uk>,

Abbey:

Caroline Hart <caroline.hart@cambridge.gov.uk>,
Miriam Lynn <miriam.lynn@cambridge.gov.uk>,
Margaret Wright <margaret@corona4.fsnet.co.uk>

There are 4 acceptable criteria on which to object to a licence application, and they are as follows:

- The prevention of crime and disorder
- Public safety

- The prevention of public nuisance
- The protection of children from harm.

You can object on any number of these grounds, which all carry equal weight, but they are the only grounds on which you may object. We would encourage everyone to give their own reasons when they write, but would just make a few points of background information which may be of interest:

This is the first application for an off licence since Mill Road became a Cumulative Impact Zone. (Two on-licences have been granted).

We know that many of you will have written as local people in support of the introduction of the CIZ; the same reasons are still relevant in the context of this application.

So, whether you are a parent, someone who has been the victim of alcohol-induced anti-social behaviour, or just someone who cares about Mill Road, please do take a few minutes to make your views known by sending your objections to the licensing officer and copying your e-mail to your local councillors.

Category: [alcohol](#) | Comments Off



Days that Tesco have been kept out of Mill Road:

665

(Counted from first East Area Committee date)

Money kept in the community:

£4.6m

of lost turnover

• Pages

Contacts

- Committee
- E-mail list changes
- E-mail list
- FAQs
- Newsletter
- Petition
- Planning applications
 - Highway Authority comments to the City Council on the Tesco application
 - Open letter to Councillors
 - Speech to the East Area Committee, July 2008
 - Tesco admits servicing via the 'loop' would be dangerous
 - Tesco's new application (summer 2008): Grounds for Objection

APPENDIX D

Applicants Proposed Operating Schedule

1. We are a national retailer that sells alcohol as part of a broad offering of goods and services. We have held off-licences in our stores for many years and are an approved British Institute of Inn-keeping examination centre. We have written training policies and formal training programmes are in place, which ensure our people are equipped to meet all licensing objectives. All training and revision/refresher materials are reviewed regularly. We have introduced our 'Think 25' policy to all of our stores in June 2009, this policy is brought to customer's attention through point of sale material at the checkout and where alcohol is displayed for sale. We take legal compliance very seriously and in addition to local training we employ a central alcohol licensing compliance manager and have a compliance committee.
2. The premises will have digital CCTV system that covers many areas of the shop floor, including the proposed area which will be used for beer and wine, should we be successful with our application. Images will be retained for a minimum of 21 days and made available on enforcement request. Ordinarily, a member of the Management team will be on the premises all the time the store is open. A person will have responsibility for the premises whilst the premises are open.
3. A person will have responsibility for the premises whilst the premises are open. Management will be trained to support the running of the premises including looking after our customers and staff. The store will adhere to all rules and regulations relating to public safety.
4. We intend to be an active member of the community. We welcome the opportunity to liaise with Police and enforcement authorities should the need arise.
5. All staff will be trained and regularly refreshed in the corporate 'Think 25' Policy. Staff will be trained to look at the customer and 'Think 25' when selling alcohol. A till prompt will appear on the initial sale of alcohol that will remind the seller of their responsibilities including not to sell alcohol to anyone under the age of 18. The store will display signage around the premises informing both staff and customers of our 'Think 25' policy on alcohol.

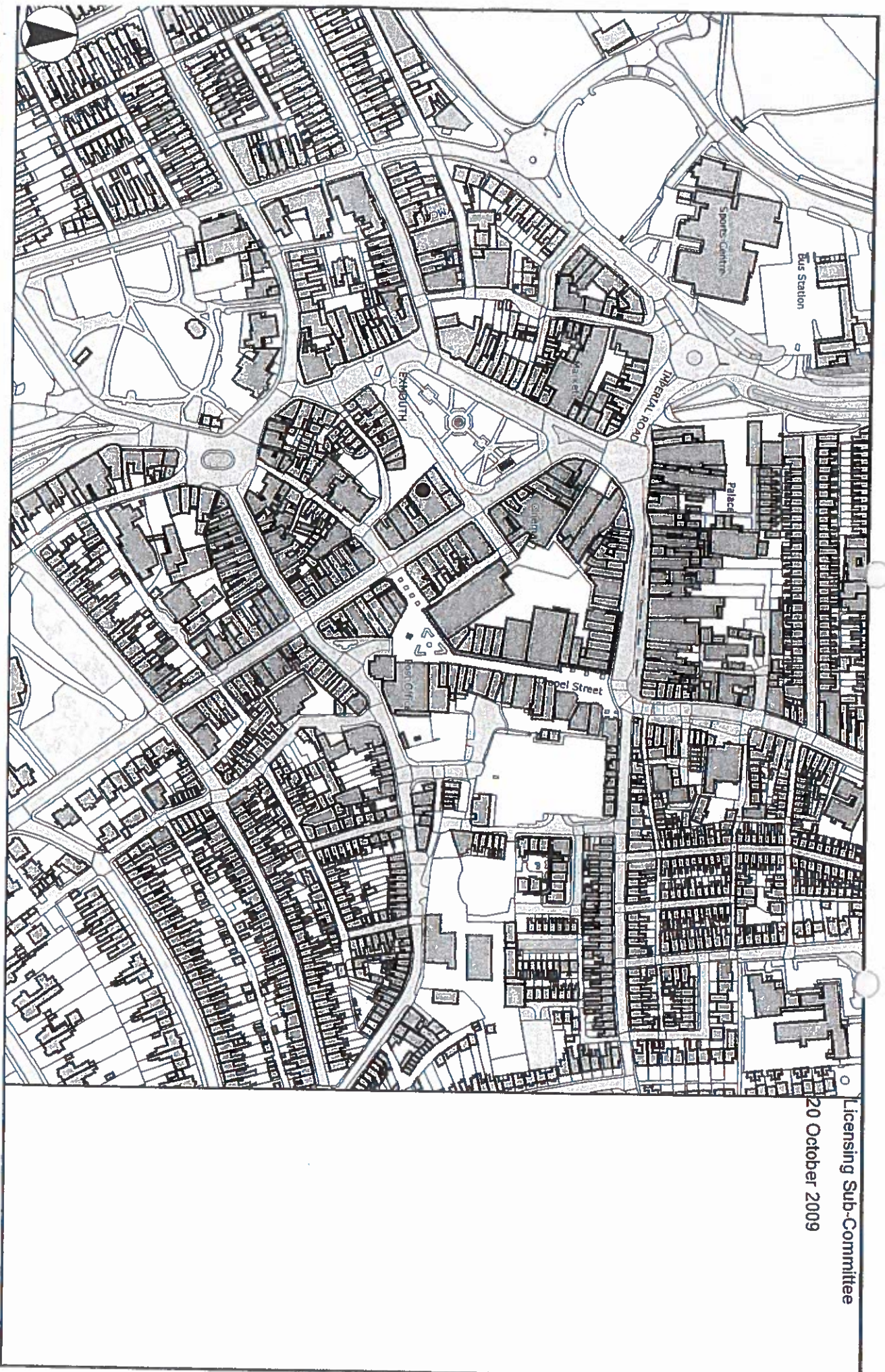
APPENDIX E

Items for consideration

Replace conditions 1 - 5 of Appendix D with

1. The Licence Holder must ensure that written training policies and formal training programmes are in place, to ensure that staff are equipped to meet all licensing objectives.
2. All training and revision/refresher materials must be reviewed regularly and rewritten to reflect the requirements of the new Licensing Act.
3. The premises must operate a 'Think 25' policy to ensure that people under 18 years old are not sold/supplied with alcohol.
4. The 'Think 25' policy must be brought to customer's attention through point of sale material which must be prominently displayed at the checkout and wherever alcohol is displayed for sale.
5. In addition to local training the Licence Holder must employ a central alcohol licensing compliance manager and must operate a compliance committee.
6. A digital CCTV system must be installed, maintained and operated to the satisfaction of the Licensing Authority.
7. CCTV recordings must be maintained for a period of 21 days or for a period of time to be agreed in writing by the Licensing Authority.
8. If the CCTV equipment is inoperative the Licensing Authority must be informed within 7 days and immediate steps to be taken to restore the equipment to full working order.
9. A notice must be displayed at the entrance to the premises advising that CCTV is in operation.
10. The Licence Holder must ensure that a member of the management team or a person authorised by them have responsibility for and are on the premises during the hours that the premises are open to the public.
11. The Licence Holder must ensure that Management are trained to support the running of the premises including looking after both customers and staff.
12. The Licence Holder must ensure that the store adheres to all rules and regulations relating to public safety.
13. The Licence Holder must liaise with the Police and enforcement authorities should the need arise.
14. The Licence Holder must ensure that all staff are trained and regularly refreshed in the corporate 'Think 25' Policy.

15. A till prompt must appear on the initial sale of alcohol that will remind the seller of their responsibilities including not to sell alcohol to anyone under the age of 18 years.



Licensing Sub-Committee
20 October 2009

Tesco Licensing Application - Appendix F

Map Title: SY0080NW Full Reference: SY0013 8092

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Details of similar licensed premises in the local area.

PLWA0569 Londis Convenience Store, 1-2 The Strand Exmouth

	l) Late Night Refreshment	m) sale of alcohol for consumption off the premises	Hours premises are open to the public
Monday to Sunday	11.00 pm - 3.00 am	6.00 am - 11.00 pm	24 Hours

PLWA0562 Moores Newsagents, 28 - 29 The Strand Exmouth

		m) sale of alcohol for consumption off the premises	Hours premises are open to the public
Monday to Sunday		7.00 am - 10.30 pm	6.00 am - 10.30 pm

PLWA0217 Somerfield, 3 Magnolia Walk, Exmouth

		m) sale of alcohol for consumption off the premises	Hours premises are open to the public
Monday to Saturday		7.00 am - 11.00 pm	7.00 am - 11.00 pm
Sunday		10.00 am - 10.30 pm	10.00 am - 10.30 pm

PLWA0181 Thresher Wine Shop, 3 High Street, Exmouth

		m) sale of alcohol for consumption off the premises	Hours premises are open to the public
Monday to Saturday		8.00 am - 11.00 pm	24 Hours
Sunday		10.00 am - 10.30 pm	24 Hours
Good Friday		8.00 am - 10.30 pm	24 Hours
Christmas Day		Midday - 3.00 pm	24 Hours
Christmas Day		7.00 pm - 10.30 pm	24 Hours

Details of similar licensed premises in the local area.

APPENDIX G

PLWA0296 Shop (The), 45 Rolle Street, Exmouth

		m) sale of alcohol for consumption off the premises	Hours premises are open to the public
Monday to Saturday		8.00 am - 11.00 pm	24 Hours
Sunday		10.00 am - 10.30 pm	24 Hours
Good Friday		8.00 am - 10.30 pm	24 Hours
Christmas Day		Midday - 3.00 pm	24 Hours
Christmas Day		7.00 pm - 10.30 pm	24 Hours

