

WAVERLEY BOROUGH COUNCIL

LICENSING SUB-COMMITTEE C – 9th APRIL 2018

Title:

**LICENSING ACT 2003 - APPLICATION TO VARY A PREMISES LICENCE –
TESCO EXPRESS, 29/31 RIDGWAY ROAD, FARNHAM SURREY GU9 8NN
[Wards Affected: All Farnham Wards]**

Summary and Purpose

The purpose of the report is to enable the Sub-Committee to consider an application for a variation to the premises licence of Tesco Express, 29/31 Ridgway Road, Farnham, Surrey GU9 8NN made by Tesco Stores Ltd, the current premises licence holder. Two relevant representations have been received from 'other persons'.

Financial implications

There are no financial implications arising from this report.

Equalities and Human Rights

Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the licensee and those making representations when making their decision. The Sub-Committee has a duty under section 17 of the Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Waverley area.

Legal implications

The legal processes to consider, determine and notify relevant parties are referred to within this report. Any appeal rights to the Magistrates Court should be included within the decision notice.

Where a decision is made that is contrary to or a departure from the statement of licensing policy and the guidance, the decision should clearly state on what basis a decision was made to depart from the policy or guidance.

An appeal against the determination of this application may be made to the Magistrates Court within 21 days of all parties being notified of the local authority's decision. The applicant or any party making representation may make an appeal.

Background

1. The premises licence was converted and varied when the Licensing Act 2003 came into force.

2. A copy of the current premises licence is attached at Annexe 1 and summarised below:

- **Sale of Alcohol** (off the premises only)

Monday to Saturday	0800 to 2300
Sunday	0800 to 2230

- **Opening hours**

Monday to Sunday	0800 to 2200
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Activities sought under this licence application

3. In brief, the applicant seeks to remove the Good Friday and Christmas Day trading restrictions. These provisions arose from the Licensing Act 1964 and unless varied, were embedded on conversion into the subsequent Licensing Act 2003 licenses. The applicant seeks to amend the licensable hours for;

- **Sale of Alcohol** (off the premises only) to:-

Monday to Sunday	0600 to 2300
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- **Opening hours**

Monday to Sunday	0600 to 2300
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4. All other licensable activities, times and days are to remain the same.

- A copy of the application form is attached at Annexe 2.

5. Attached at Annexe 3 is a plan showing the area of the premises and surrounding properties.

Representations received

6. Within the consultation period, a total of two 'relevant representations' were received. 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.

Responsible Authorities

7. There have been no representations received from any of the Responsible Authorities.

Other Persons

8. Besides Responsible Authorities, “other persons” may make representations. There have been two (2) relevant representations from “other persons”. The representations are attached at Annexe 4.

What the Sub-Committee may do

The Sub-Committee

9. Licensing authorities are required to carry out licensing functions under the Licensing Act 2003 with a view to promoting the licensing objectives of:-
 - i. Public safety
 - ii. The prevention of crime and disorder
 - iii. The protection of children from harm, and
 - iv. The prevention of public nuisance.

10. In addition, when carrying out its licensing functions, the licensing authority must have regard to its own statement of licensing policy and the guidance issued under Section 182 of the Licensing Act 2003, available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/607237/182Guidance_05_04_17.pdf

The Guidance will be available for reference purposes at the meeting.* Particular attention is drawn to:

- Conditions – paragraphs 1.16-1.17 and 10.1 to 10.66
- The Licensing Objectives – paragraphs 2.1–2.31
- Hearings - paragraphs 9.31 to 9.44

11. The Sub-Committee must consider the application on its individual merits and take into account all relevant matters then determine the application by taking the steps it considers appropriate and proportionate to promote the licensing objectives.
12. When considering applications to vary an existing licence, only the variation is subject to determination. No changes can be made to the licence unless they are subject to the variation application.
13. Members are advised that when considering applications to vary an existing licence, the following options are available to them by virtue of Part 3, Section 35(3) and (4) Licensing Act 2003. This provides that the Sub-Committee, having regard to the relevant representations made, must take such steps as it considers appropriate for the promotion of the licensing objectives. The steps are to:
 - a. modify the conditions of the licence (conditions are deemed to be modified if they are altered, omitted or a new condition added); or
 - b. reject the whole or part of the application.

If neither of these steps are taken, the application must be granted.

Recommendations

It is recommended that

1. the Sub-Committee considers the application and evidence of all parties involved at the hearing and then determines the steps it considers appropriate to promote the licensing objectives as described in the paragraph above.
2. Members determine the application in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

Background Papers

Application referred to above; representations referred to above.

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*Those without access to the Internet should contact Paul Hughes in order to access the Guidance