

# LICENSING (LIQUOR AND GAMBLING) PANEL

Date: 26 January 2015

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10 am

Present: Councillors: Tony Boto  
Richard Gell  
Glennil Greenwood-Smith

## Also present:

Julia Smith  
(Health Protection Manager)  
Rita Groves  
(Licensing Enforcement Officer)  
Andrew Woods (Woods Whur)  
Daniel Boswell  
Mebs Kassam  
Barbara Wiggins

## Representing

East Northamptonshire Council  
East Northamptonshire Council  
Applicant's Solicitor  
Assistant Manager, Tesco Rushden  
Legal Advisor to the Panel  
Democratic Services Officer

## 1. APPOINTMENT OF CHAIRMAN

### RESOLVED:

That Councillor Tony Boto be appointed Chairman of the Panel for this hearing.

## 2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

## 3. DECLARATIONS OF INTEREST

There were no declarations of interest.

## 4. APPLICATION FOR A NEW PREMISES LICENCE FOR TESCO, 1-7 HIGH STREET, RUSHDEN, NN10 9JR

The Health Protection Manager reported on an application for a new premises licence for Tesco, 1-7 High Street, Rushden, NN10 9JR under the Licensing Act 2003.

The matters for which a premises licence was sought were:

### **Supply of Alcohol**

Everyday 0600 – 2300 (for sales off the premises)

The application had been received on 9 December 2014. The appropriate notices had been displayed during the required consultation period and as a result of the consultation, representations had been received from:

- Northamptonshire Police, and
- Rushden Town Council

The current licence in place provided for the Sale of Alcohol Monday to Sunday 1000 – 2200. The original application for a premises licence went to a Panel Hearing in February 2011 and two conditions were imposed at the time and were on the current licence.

The representation received from Northamptonshire Police related to the adverse impact on the promotion of the licensing objective “Prevention of Crime and Disorder”. There was an ongoing problem around theft of alcohol from the Store, even with security staff in place. It was therefore the contention that, should the licence be granted without a condition requiring the provision of security staff, this would only serve to exacerbate the current issue with the theft of alcohol.

The representation received from the Town Council noted both the Prevention of Public Nuisance and Protection of Children from Harm as reasons for the licence to be refused. The Town Council detailed problems experienced with respect to litter, vandalism and anti-social behaviour under the current licence, and identified concerns that this would also occur on issue of this licence.

It was noted that, in advance of the Hearing, Northamptonshire Police had agreed conditions should the licence be granted:

It was also noted that Rushden Town Council had omitted to advise of their intention to speak at the Hearing. However, they had attended the Panel Hearing and, with the agreement of the Applicant’s Solicitor, would put the views of the Town Council.

### **Evidence from Applicant**

Mr Andrew Woods of Woods Whur had attended the Hearing and spoke on behalf of the Applicant. It was Tesco’s contention that customers who shopped early in the day should be allowed to purchase alcohol with their groceries. Other outlets in the town were operating along the same lines as applied for and it would be unfair to treat Tesco differently. Staff at the premises completed extensive training on the sale of liquor and completed refresher training as and when required. A security guard was in place 7 days a week from 1500 to close of business.

Mr Woods confirmed that Northamptonshire Police had agreed to certain conditions if the licence was granted.

Mr Woods stated that Tesco was aware of the issues with individuals gathering at the War Memorial in Rushden and confirmed that there was no evidence that the debris and litter around the War Memorial was a result of Tesco selling alcohol. Mr Woods confirmed that Tesco were willing to work with the Town Council to help alleviate the problems in the area.

### **Questions to the Applicant**

Mrs Vivienne Prodger, Clerk to Rushden Town Council, advised that the Town Council litter picked and cleared debris from the site of the War Memorial every day, and this had been ongoing since Tesco had opened the store.

The Panel received confirmation from Mr Woods that CCTV was in operation at the Store.

Following a question from the Panel about the numbers of customers who wished to

purchase alcohol at 6am, Mr Woods confirmed that numbers were not available. However, there were people who preferred to shop very early in the morning, either on their way to or from work, and who wished to purchase alcohol for later consumption.

Following a question from the Panel, the Assistant Manager, Mr. Boswell confirmed that a Security Guard was in place in the middle of the Store where the alcohol was kept. Referring to a statement by Northamptonshire Police, Mr Boswell stated that the majority of goods stolen from the store were health and beauty products. He also confirmed that most thefts took place whilst the Security Guard was taking a break.

### **Evidence from Rushden Town Council**

Mrs Prodger confirmed that bottles and cans were cleared from the site of the War Memorial and the Peace Garden every day and advised that unfortunately, none of the cans or bottles had been retained as evidence. The Town Council considered it to be morally wrong to sell alcohol from 6am. Children used the store frequently and that presented a great concern to the Council. Mrs Prodger noted that Tesco had not interacted with them regarding community liaison.

The Town Council had received complaints about the litter and debris surrounding the Peace Garden and War Memorial as members of the public used the area to sit and contemplate. That was the reason there was a daily litter pick as opposed to the twice a week arrangement prior to the Tesco store opening.

The Town Council were aware that the other outlets also opened and sold alcohol from 6am, but the Tesco store was more prominent in the centre of the town.

Mr Woods noted that no proof had been offered to confirm that the empty cans of alcohol had originated from the Tesco store.

Discussion was held on communication between the Town Council and the Tesco store.

In summing up, Mr Woods confirmed that Tesco had not been aware of the views of the Town Council and would be prepared to liaise with them in the future. Mr Woods confirmed that Northamptonshire Police had agreed conditions should the licence be granted. Mr Woods also stated that the contents of the cans and bottles drunk at the War Memorial and Peace Garden could have been purchased at other locations within the town.

*At 10.40am the Panel adjourned to make their decision.*

*The Panel returned at 11.30am to announce their decision*

### **RESOLVED:**

The Licensing Panel has considered this application for a new Premises Licence for, Tesco Stores Limited, 1-7 High Street, Rushden and has taken into account the Licensing Enforcement Officers report, representations from the Applicant's solicitor and all relevant representations evidence and documents submitted, together with objections made at the Hearing by Rushden Town Council.

After careful deliberation and consideration of the Licensing Objectives, ENC's Statement of Licensing Policy and Guidance issued under Section 182 of the Licensing Act 2003, the Panel has reached a decision.

The Panel grants the Premises Licence for the supply of alcohol for the following hours.

**Supply of Alcohol (Off Sales only)**

Monday to Sunday from 06:00 hours to 23:00 hours.

The Licence issued is subject to mandatory conditions and those within the operating schedule and replaces the existing Licence, which was issued on 23 February 2011, in its entirety.

The Panel imposes the following additional conditions:-

1. The Licence Holder is to have in place a Security Guard between 15:00 hours until close of business on any day of the week that the business is open for the sale of alcohol.

**Reason: Prevention of Crime and Disorder**

2. The Licence Holder is to make adequate provision for waste bins which are to be situated at the exits of the premises.

**Reason: Prevention of Public Nuisance.**

The reasons for the decision are as follows:-

1. Having heard representations from the Objector the Panel could see no clear evidence to link the objections to the Applicant.
2. To promote the Licensing Objectives.

The Panel received legal advice in terms of:

1. The Licensing Objectives
2. The options available to the Panel
3. The legal test to be applied

The Panel was pleased to see the comprehensive operating schedule and believes it takes all reasonable steps to address the concerns of the objector. The Panel welcomes the Applicants willingness to proactivity liaise with Rushden Town Council to identify sourcing of any discarded alcoholic beverage containers, and to meet on a regular basis with Rushden Town Council to discuss any issues relating to this Licence.

The Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the Applicant and any Party that has made representation has the Right to Appeal to the Magistrates Court within 21 days of the Decision Notification letter.

**Chairman**