

Report to: Licensing Sub-Committee

Date: 29 February 2024

Title: Application for a new Premises Licence for Tesco Express Former Seven Sisters Public House Alfriston Road Seaford BN25 3PY

Report of: Director of Service Delivery

Ward(s): Seaford South

Purpose of report: To consider representations made against the new premises licence application under the Licensing Act 2003 and make a decision on the application

Officer recommendation(s): That the Licensing Sub-Committee determine an application for a new premises licence under the Licensing Act 2003 for Tesco Express

Reasons for recommendations: Relevant representations made within consultation period

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1 Introduction

- 1.1 Lewes District Council received an application for a new premises licence under the Licensing Act 2003 for Tesco Express Former Seven Sisters Public House Alfriston Road Seaford BN25 3PY. The application is included at **Appendix A**.
- 1.2 Alongside the application a plan of the premises was submitted and this can be found at **Appendix B**.
- 1.3 Retail premises (supermarket) with residential properties above..

2 The Application

- 2.1 An application for the grant of a new premises licence under the Licensing Act 2003 for the following licensable activities:

Sale by Retail of Alcohol (off the premises)

Every Day 06:00 – 00:00

Late Night Refreshment (indoors)

Every Day 23:00 – 00:00

Opening Hours

Every Day 06:00 – 00:00

3 Licensing Objectives

- 3.1 When applying for a new premises licence under the Licensing Act 2003, the applicant is required to describe any steps they intend to take to promote the four licensing objectives as defined by the Licensing Act 2003. The operating schedule detailing these steps can be seen in the application form. This is included at **Appendix A**.

4 Consultation Process

- 4.1 The Licensing Act 2003 requires applicants to advertise both on the premises and in a local newspaper in order to inform the public of the application. The application details are also advertised on the council's website. Responsible Authorities have also been consulted as part of the process. There was a consultation period of 28 days, from the 12 January 2024 until midnight on 9 February 2024, for representations to be made. The applicant conformed with all the requirements as laid out within The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.
- 4.2 Mediation has taken place between the applicant and Sussex Police but no full agreement has been reached, **see 5.2 below**. No mediation with other objectors has been advised to the Licensing Officer at this time.

5 Representations

- 5.1 Six representations were made during the consultation period, five by members of the public and one by Sussex Police under the licensing objectives of the Prevention of Crime & Disorder and Prevention of Public Nuisance. These can be found at **Appendix C**.
- 5.2 Sussex Police and the applicant have agreed some conditions under the Prevention of Crime & Disorder and Protection of Children from Harm. Another condition and amendment to application are still being discussed at this time. These can be found at **Appendix D**.
- 5.3 Members are asked to note that not all the information provided within the representations are valid against the four Licensing Objectives within the Licensing Act 2003.

6 The Decision Making Process - The Licensing Objectives

6.1 In their decision making, the Licensing Sub-Committee must act to promote the four licensing objectives. All carry equal weight as part of the process. The licensing objectives are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

6.2 A representation is a 'relevant representation' if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a likely effect of a grant (i.e. more probable than not).

7 Lewes District Council's Statement of Licensing Policy & Section 182 Guidance

7.1 Whilst each application will be considered on its merits, the Licensing Sub-Committee will act to promote the four licensing objectives and have due regard to:

- Lewes District Council's Statement Of Licensing Policy 2022-2027
- Section 182 Guidance issued by the Home Office.

7.2 Members are asked to consider, in particular, sections 5.1, 5.2 & 6.2 of the Statement of Licensing Policy when making a decision on this application.

8 Options open to the Sub-Committee

8.1 The Licensing Sub-Committee shall take the steps it considers appropriate for the promotion of the licensing objectives and may:

- Grant the licence in the same terms as it was applied for.
- Grant the licence but modify the conditions as appropriate for the promotion of the licencing objectives.
- Grant the licence but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives.
- Reject the application.

8.2 The Sub-Committee are asked to note the procedures relating to this hearing which are contained in The Licensing Act 2003 (Hearing) Regulations 2005, as amended.

8.3 The Sub-Committee may also consider any other matters that may negatively impact upon the licensing objectives and exercise their powers to impose conditions, or take the appropriate action as they see fit, in order to promote the licensing objectives.

- 8.4 In determining what, if any, conditions should be attached to a licence, these should only be imposed where it is considered appropriate and proportionate on a case-by-case basis. The applicant, any person or any Responsible Authorities may also suggest conditions to address concerns as a means to promote the licensing objectives. The Sub-Committee may not impose any condition unless its discretion has been exercised following receipt of a relevant representation and is satisfied that it is appropriate to promote one or more of the licensing objectives.

9 Financial appraisal

- 9.1 There are no specific financial implications arising from this application as the cost of delivering the licensing function is fully covered by the Licensing fees.

- 9.2 A decision made by the Sub Committee may be appealed by any party to the proceedings to a Magistrates' Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council. The impact of these additional costs (if any) will therefore need to be met from within existing revenue budgets.

10 Legal implications

- 10.1 Under section 18 Licensing Act 2003 (as amended), following receipt of an application for a premises licence, if a relevant representation is received, unless all parties agree that a hearing is unnecessary, the Licensing Authority must hold a hearing. At the hearing the Sub Committee shall, having regard to the representations, take such steps as it considers appropriate for the promotion of the licensing objectives. The relevant options are outlined in para. 8.1 of this Report.

- 10.2 The Licensing Sub Committee should be mindful of the requirements and responsibilities placed upon them by other legislation, in addition to those contained within the Licensing Act 2003. These include, but are not limited to, having due regard to the relevant parts of the Equality Act 2010, the Human Rights Act 1998, and the Crime and Disorder Act 1998.

- 10.3 Under section 181 and Schedule 5 Licensing Act 2003 there is a right of appeal to the Magistrates' Court in respect of applications for new premises licences. This right of appeal is open both to the Applicant and to any person who has made a relevant representation. The appeal application must be made within 21 days of the written notification of the decision to the appellant.

- 10.4 The Legal Section considered this Report on 14 February 2024 (Iken 12711-LDC-MW).

11 Risk management implications

- 11.1 There are no risks associated with the content of this report.

12 Equality analysis

12.1 An Equality Analysis is not constructive in this instance.

13 Environmental sustainability implications

13.1 There are no sustainability and/or carbon reduction implications associated with this report.

14 Appendices

14.1 Appendix A – Application form

Appendix B – Plan of premises

Appendix C – Representations

Appendix D – Agreed conditions with police

15 Background papers

15.1 Section 182 Statutory Guidance to the Licensing Act 2003 available [here](#)

Lewes District Council Licensing Statement 2022-2027 available [here](#)

Human Rights Act 1998

Equality Act 2010

Crime and Disorder Act 1998