

# CHESHIRE EAST COUNCIL

## REPORT TO: LICENSING ACT SUB-COMMITTEE

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<b>Date of Meeting:</b>	<b>Wednesday 4<sup>th</sup> September 2013 at 10.00am</b>
<b>Report of:</b>	Mrs N Cadman, Licensing Officer
<b>Subject/Title:</b>	<b>Application for a new Premises Licence at Tesco Express, West Road, Congleton, CW12 4HB</b>

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### 1.0 Report Summary

- 1.1 The report provides details of an application for premises licence and the proposed operating schedule together with details of relevant representations received in relation to the application.

### 2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to determine the application for a new Premises Licence by Tesco Stores Ltd in respect of:

Tesco Express  
West Road  
Congleton  
Cheshire  
CW12 4HB

- 2.2 Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives, and where Members consider matters have engaged one or more of the objectives, they may exercise their discretion.

- 2.3 Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to, and should provide reason(s) for any decision taken, or where they might consider departing in any way from the Policy or Guidance.

### 2.4 Licensing Objectives / Guidance / Policy Considerations

- 2.4.1 The relevant representations engage the licensing objectives. The Sub-Committee in respect of this application is referred to the Guidance issued under Section 182 of the Licensing Act 2003, specifically those sections relating to the licensing objective, premises licenses and hearings. The licensing objectives are (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.

### 2.5 Statement of Licensing Policy

- 2.5.1 Members should carefully consider the relevant sections of the Council's Statement of Licensing Policy.

2.6 Members are reminded that should any conditions be added, they should be practical, enforceable and appropriate to promote the Licensing Objectives.

2.7 Finally, Members are also reminded that in determining the application in accordance with the Licensing Act 2003, Members must also have regard to:

- The rules of natural justice
- The provisions of the Human Rights Act 1998

### **3.0 Reasons for Recommendations**

3.1 The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003.

### **4.0 Wards Affected**

4.1 Congleton West

### **5.0 Local Ward Members**

5.1 Cllr G Baxendale  
Cllr R M Domleo  
Cllr D Topping

### **6.0 Policy Implications**

6.1 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 and Guidance issued under section 182 of the Act.

### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 Not applicable.

### **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 In accordance with the provisions of section 18 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. Section 18(4) provides that the authority may:

- (a) Grant the licence subject to the relevant mandatory conditions and conditions consistent with the operating schedule
- (b) Modified the application to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives
- (c) Exclude from the scope of the licence any of the Licensable Activities to which the application relates
- (d) Refuse to specify a person in the licence as the Premises Supervisor
- (e) Reject the application.

## **9.0 Risk Management**

- 9.1 Section 181 and Schedule 5 of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

## **10.0 Background and Options**

- 10.1 The application, received on the 16<sup>th</sup> July 2013, is for the grant of a new Premises Licence under section 17 of the Licensing Act 2003.

- 10.2 The operating schedule indicates that the relevant licensable activities applied for are:

- Sale by retail of alcohol

- 10.3 The hours applied for are as follows:

- **Sale by retail of alcohol**  
Monday to Sunday 06.00hrs to 23.00hrs

The sale by retail of alcohol is for consumption off the premises only.

- **Opening Hours of the Premises**  
Monday to Sunday 06.00hrs to 23.00hrs

- 10.4 A copy of the application form is attached as Appendix 1.

The premises is currently authorised for the sale by retail of alcohol for consumption off the Premises only, Monday to Sunday 07.00hrs to 22.00hrs by Premises Licence number PREM834 which was granted on 20<sup>th</sup> April 2013.

## **10.5 Relevant Representations**

### Responsible Authorities:

- 10.6.1 There were no objections from any of the Responsible Authorities.

### Other Persons:

- 10.6.3 The Council has received written objections from 3 local residents and a written objection from Cllr G Baxendale, Ward Councillor for Congleton West Ward. Copies of these representations are attached as Appendices 2 to 5 of this report.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## **APPENDICES**

Appendix 1 – Premises Licence application form

Appendixes 2 – 5 Letter of objection

Appendix 6 – Current Premises Licence Summary & Conditions

Appendix 7 – Map of area.