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| **REPORT TO** | **ON** |
| **Licensing Panel** | **19 November 2020**  |
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| **TITLE** | **REPORT OF** |
| **Tesco Stores Ltd** | **Shared Services Lead - Legal & Deputy Monitoring Officer** |

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| Is this report confidential? | **No**  |

**PURPOSE OF THE REPORT**

1. To provide an overview of the application and inform Members of the relevant parts of statute and guidance relating to this application.

**RECOMMENDATIONS**

1. Members are requested to:
2. Note the content of the report; and
3. Determine whether to grant or reject the application. If members grant the application, they are asked to consider whether any additional conditions or restrictions should apply (taking into account any representations that have been made).
4. Conduct the hearing in accordance with the hearing procedure.

**CORPORATE PRIORITIES**

1. The report relates to the following corporate priorities:

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| An exemplary Council | X |
| Thriving communities | X |
| A fair local economy that works for everyone | X |
| Good homes, green spaces, healthy places | X |

**BACKGROUND TO THE REPORT**

1. An application was submitted on the 30th September 2020 with a representation start date of 2nd October 2020 by Tesco Stores LTD for a new Premises Licence pursuant to Section 17 of the Licensing Act 2003 for the Sale of alcohol at Tesco Stores Ltd, Liverpool Road, Penwortham, Preston, PR1 9XE.

1. The Applicant seeks permission to sell alcohol by retail between the hours of 00:00 to 00:00 Monday to Sunday for off sales only. Alcohol may be bought on the licensed premises, but must be consumed off the premises.
2. The Proposed Opening Hours of the premises are 24 hours- Monday to Sunday.
3. The Premises will consist of a brand-new supermarket on the proposed site off Liverpool Road, Penwortham, that is currently under construction work. Please see Background Document 1 for the application form and background document 2 for the plan of the premises attached to this report.

**REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES**

1. Responsible Authorities are deemed to be experts in relation to identifying if a new proposed premises would undermine one of the 4 Licensing Objectives which include Public Nuisance, Prevention of Crime & Disorder, Protection of Children from harm and Public Safety.
2. All Responsible Authorities were consulted by the Licensing Authority. No representations have been made by any Responsible Authority.
3. Conditions have been agreed between the applicants and the police with regards to Under age sales, challenge 25 Polices and sale of alcohol to intoxicated people, all staff are required to receive staff training on these issues. This can be found within appendix 1 of the report.

**REPRESENTATIONS FROM OTHER INTERESTED PARTIES**

1. 4 written representations from members of the public were received by the licensing authority opposing granting the premises a licence.
2. A representation is not relevant if it does not directly relate to one or more of the 4 licensing objectives. Representations that are categorised as vexatious or frivolous would not be taken into account.
3. Two of the representation raised were deemed relevant by officers of the Licensing Authority. Those representations stated that if the premises licence was granted, the premises would be undermining the Prevention of Public Nuisance and the Prevention of Crime and Disorder objectives, in the opinion of the members of public making those representations.
4. Where relevant representation are received the licensing authority must hold a hearing. Copies of the relevant representation can be found attached to this report as Appendix 2 and Appendix 3.

**PROPOSALS**

1. The Licensing Panel are asked to determine the application under section 18 of the Licensing Act 2003.
2. Section 18 of the Licensing Act 2003 sets out the steps that can be taken, which are;
3. To grant the Premises Licence subject to any conditions the Licensing Authority considers appropriate for the promotion of the Licensing Objectives.
4. To exclude from the scope of the licence any licensable activities to which the application relates.
5. To refuse to specify a person in the licence the premises supervisor; or
6. To reject the application.
7. A licensing authority must carry out its functions under the Act (licensing functions) with a view to promoting the licensing objectives. In carrying out its functions, a licensing authority must also have regard to;

 a) Its own statement policy published under section 5, and

 b) Any guidance issued by the Secretary of State under section 182.

1. Relevant policy considerations are as follows;

*12.4 In considering all licence applications, the Licensing authority will consider the adequacy of measures proposed to deal with the potential for nuisance and disorder having regard to all of the circumstances of the application, and in particular consider the following:-*

*a. the type of activity, the number and type of customers likely to attend;*

*b. the levels of noise likely to be generated from the premises;*

*e. the levels of public transport accessibility for customers and the likely means of public or private transport that will be used;*

*f. means of access to the premises for customers;*

*g. whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents;*

*j. the steps the applicant has taken or proposes to prevent disturbance by patrons arriving at or leaving the premises;*

*l. the arrangements the applicant has made or proposes to make for security lighting at the premises, and the steps the applicant has taken or proposes to take to ensure that lighting will not cause a nuisance to residents;*

*m. whether routes to and from the premises pass residential premises;*

*n. whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premises.*

1. Relevant paragraphs of the Section 182 guidance are found below;

*“9.3 where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 below), the licensing authority’s discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.*

*9.4 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. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives…..There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.*

*9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.*

*9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.”*

1. Panel members are requested to consider the evidence and to determine whether or not the application should be granted with or without modifications or rejected.

**AIR QUALITY IMPLICATIONS**

1. No Air Quality Implications

**COMMENTS OF THE STATUTORY FINANCE OFFICER**

1. There are no additional costs relating to this report. If a licence is granted then there would be additional income to the council from the associated fees.

**COMMENTS OF THE MONITORING OFFICER**

1. The report identifies the relevant legislation in respect of this matter. One important point to make is that any party aggrieved with the decision of the panel, does have the right to appeal to a Magistrates Court within 21 days.

**OTHER IMPLICATIONS:**

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| **Risk** **Equality & Diversity**  | *Please refer to the Monitoring Officer comments set out above.**No issues have been identified in respect of Equality & Diversity.* |

**BACKGROUND DOCUMENTS**

Background Document 1 - Application form with plan of premises

Background Document 2 – Plan of premises

**APPENDICES**

Appendix 1- Agreed conditions between applicant and the police

Appendix 2 - Representation 1

Appendix 3 - Representation 2

Dave Whelan

Shared Services Lead (Legal) and Deputy Monitoring Officer

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| Report Author: | Telephone: | Date: |
| Chris Ward (Licensing Officer) | 01772 625330 | 03/11/2020 |