

**Appeals by Tesco Express Stores in Downland Drive, Southgate and Dobbins Place, Ifield**

1. The Licensing Sub Committee at their meeting on 11<sup>th</sup> January 2007 considered two applications for a Review of existing premises licences in respect of two Tesco Express Stores at Downland Drive, Southgate and Dobbins Place, Ifield. Both of these applications were submitted by Sussex Police as "Responsible Authority". A Review had been requested on the grounds that the licence holder was deemed not to be promoting the statutory objectives of preventing crime and disorder and the protection of children from harm. Both Reviews were based on under age sales of alcohol from each premises. The hearings were adjourned until 16<sup>th</sup> February 2007 to enable members to consider further representations from the parties.
2. The decision of the sub committee in respect of Downland Drive was:
  - That the licence be suspended for a period of one month
3. The Sub Committee has also decided to modify the conditions of the Premises licence to include the following conditions:
  - (1) Sight of evidence of age shall be required from any person appearing to those engaged in selling or supplying alcohol to be under the age of 21 and who is attempting to buy alcohol.
  - (2) No Supply of alcohol may be made under the premises licence from 18:00 to close on business on Thursdays, Fridays and Saturdays unless the Designated Premises Supervisor or other personal licence holder is present on the premises except where no such person is on the premises at these times due to an emergency or unforeseen circumstances.
4. The decision of the Sub-Committee in relation to Dobbins Place, Ifield was the same but with an added third condition to the Premises licence:
  - No supply of alcohol may be made under the premises licence at any time when there is no Designated Premises Supervisor who is a Designated Premises Supervisor in respect of these premises only.
5. Tesco's appealed against the decisions of the Sub Committee by way of an appeal to the Magistrates Court on the grounds that:
  - (1) The decision of the Licensing Sub Committee was wrong.
  - (2) The Licensing Sub Committee failed to take into account all relevant considerations.
  - (3) The Licensing Sub Committee took into account irrelevant considerations.

The appeal which was due to be heard on 16<sup>th</sup> July 2007 relating to the Downland Drive Tesco Express Store was withdrawn the decision of the sub committee took effect and the store was closed for the sale of alcohol for one month.

The appellants indicated that they would continue with the Appeal relating to the Ifield Store. The appeal was due to be considered by Horsham Magistrate's Courts on Thursday 18 October 2007.

Since these cases were put to the Sub Committee Tesco's Stores had produced a report prepared by an independent company who had undertaken a range of test purchases around the country for them, the Ifield store passed a test purchase on 4<sup>th</sup> July 2007. Whilst the store failed a test purchase on 12<sup>th</sup> October 2006 (which was the

subject of the Review) it subsequently passed two test purchases on 5<sup>th</sup> April 2007.

6. In relation to the failure to nominate a new Designated Premises Supervisor at the Ifield Store, Tesco's pleaded guilty at the Magistrates Court and were fined £10,000 on Monday 9<sup>th</sup> July 2007.

That Tesco's indicated that if the Council were prepared to withdraw its insistence on the month's suspension at the Ifield store given that there would have only be one failure and three passes, they would be prepared to accept the conditions imposed by the Sub Committee.

Following discussions with the Chair of the Sub Committee that took the original decision the Chief Executive took urgent action under Procedure Rule 24.4 to instruct the Head of Legal Services to settle the appeal relating to the Tesco's Express Store, Ifield by way of Consent Order. Both the officers and Police raised no objection to the settlement of this matter. The Consent Order approved by the Court was as follows:-

1. That there be no suspension of the Premises Licence at Tesco Express 1-2 Dobbins Place, Ifield, Crawley
2. That the appeal be allowed and that the Premises Licence for Tesco Express, 1 – 2 Dobbins Place, Ifield, Crawley, RH11 0PL be varied on the terms agreed between the parties
3. Tesco Stores Ltd to contribute £1500 towards the Council's costs

The following conditions were also added to the premises licence:

1. Sight of evidence of age shall be required from any person appearing to those engaged in selling or supplying alcohol to be under the age of 21 and who is attempting to buy alcohol.
2. No supply of alcohol may be made under the premises licence from 18.00 to close of business on Thursdays, Fridays and Saturdays unless the Designated Premises Supervisor or other personal licence holder is present on the premises except where no such person is on the premises at these times due to emergency or unforeseen circumstances.
3. No supply of alcohol may be made under the Premises Licence at a time when there is no Designated Premises Supervisor who is a Designated Premises Supervisor in respect of these premises only.