

**To the Chair and Members of the  
Licensing Sub-Committee**

**Licensing Act 2003 – Application for a Variation of an Existing Premises  
Licence.**

**Tesco, Adlard Road, Wheatley Hills, Doncaster, DN2 5NH**

**EXECUTIVE SUMMARY**

1. To request that members of the Sub-Committee determine the application for a variation to an existing premises licence in respect of Tesco, Adlard Road, Wheatley Hills, Doncaster, DN2 5NH. The procedure for considering the application is set out at Appendix A.

**RECOMMENDATIONS**

2. It is recommended that the Sub-Committee determine this application having regard to the representations made and the evidence before it.

**WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER**

3. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on licence applications which are the subject of representations.

**BACKGROUND**

4. The premises concerned are currently a convenience store, licensed for the sale of alcohol for consumption off the premises, Monday to Saturday 08.00 - 23.00 and Sunday 10.00 - 22.30, with reduced hours on Christmas Day & Good Friday.  
The application seeks to allow the sale of alcohol to commence 1 hour earlier Monday to Saturday, to increase the permitted hours on a Sunday to match those of the rest of the week and to remove the restrictions for Christmas Day and Good Friday.
5. A summary of the application is attached as Appendix B to this report.
6. A location plan of the premises is attached at Appendix C.
7. A copy of the application is attached at Appendix D.

8. Under the Licensing Act 2003, statutory guidance issued under section 182 of the Act and the Licensing Authority's statement of Licensing Policy, any licensing application under the Act in respect of which representations have been made to the Licensing Authority and which have not been withdrawn or resolved by mediation fall to be determined by the Licensing Sub-Committee having regard to the evidence before it.
9. Representations regarding the application have been received from two neighbouring residents. Copies of the representations are attached at Appendix E.
10. The applicant has indicated that a copy of the application was sent to the Responsible Authorities. Details of the application have been published on the Council website.
11. A copy of the existing premises licence is attached at Appendix F.

## OPTIONS CONSIDERED

12. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations on licence applications, which are the subject of representations and therefore no other option other than to hold a hearing can be considered.
13. Where the Licensing Authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
  - To modify the conditions of the licence.
  - To reject the whole or part of the application, and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

14.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>It is recognised that Licensed premises are, quite often, businesses and places of employment.</p> <p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this priority when making licensing decisions.</p> <p>The licensing objectives are:</p>

		<ol style="list-style-type: none"> <li>1. Prevent crime and disorder</li> <li>2. Prevent public nuisance</li> <li>3. Public safety</li> <li>4. Protection of children from harm</li> </ol>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this priority when making licensing decisions.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>It is recognised that Licensed premises are, quite often, businesses, places of employment and potential assets to the community.</p> <p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this priority when making licensing decisions</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	None
	<p>Council services are modern and value for money.</p>	None
	<p>Working with our partners we will provide strong leadership and governance.</p>	None

## RISKS AND ASSUMPTIONS

15. There are no risks or assumptions other than those referred to in the Legal Implications below.

## **LEGAL IMPLICATIONS**

16. Other than to ensure that the Licensing Authority complies with its obligations under the Licensing Act 2003 and associated Regulations there are no further legal implications.

## **FINANCIAL IMPLICATIONS**

17. The costs associated with the application and their determinations are met from fees paid to the Council by applicants for Premises Licences under the Licensing Act 2003 and there are no further financial considerations.

## **HUMAN RESOURCES IMPLICATIONS**

18. Not applicable

## **TECHNOLOGY IMPLICATIONS**

19. Not applicable

## **EQUALITY IMPLICATIONS**

20. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

## **CONSULTATION**

21. Copies of the application form have been sent to all relevant Responsible Authorities referred to in Section 53 of the Licensing Act 2003. These are:

South Yorkshire Police

South Yorkshire Fire and Rescue Authority

Doncaster Council – Licensing Authority

Doncaster Council - Planning Services

Doncaster Council - Health & Safety Enforcement

Doncaster Council – Environmental Protection - Enforcement

Doncaster Council - Trading Standards

Doncaster Safeguarding Children Board

Doncaster Council - Public Health

## **BACKGROUND PAPERS**

- 22. Doncaster Council's Statement of Licensing Policy 2016
- 23. Home Office Guidance issued under section 182 of the Licensing Act

## **REPORT AUTHOR & CONTRIBUTORS**

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## APPENDIX A

### PROCEDURE FOR CONSIDERING APPLICATIONS

### DONCASTER METROPOLITAN BOROUGH COUNCIL

### LICENSING ACT 2003

### LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

### INFORMATION FOR APPLICANTS AND OTHER PARTIES

#### 1. Meaning of Expressions used in this Document

<i>"the Act"</i>	- Licensing Act 2003
<i>"the Regulations" or any particular reference to a "Regulation"</i>	- The Licensing Act 2003 (Hearings) Regulations 2005
<i>"the Authority"</i>	- Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
<i>"the Committee"</i>	- the Sub-Committee of the Authority's Licensing Committee constituted under the Act to determine the matter before it
<i>"the Chair"</i>	- the member of the Committee appointed to act as Chairperson of the Committee
<i>"the Applicant"</i>	- the party making the application e.g. the licence/certificate holder or prospective holder, or the party seeking a review
<i>"interested parties"</i>	- those living or working in the vicinity of the premises and who have made representations, or bodies representing them
<i>"responsible authorities"</i>	- the public or other bodies described in the Act as "responsible authorities" and who have made representations

## **2. Rights of attendance, assistance and representation at hearings**

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.
- (b) The hearing shall take place in public, unless the authority decides to exclude the public from all or part of the hearing because it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public. A party and any person assisting or representing a party, may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner, and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.

## **3. Non-attendance of a party at the hearing**

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority shall adjourn the hearing to a specified date if it considers it in the public interest to do so, but it shall otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

#### **4. Procedure at the Hearing**

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

#### **Order of Addresses under paragraph (c)**

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority" (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below



[4] Any other party supporting the Application

**Permission to question or cross-examine the Applicant or other party**

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non contentious and is for the purpose of clarification only.

**5. The Committee's Deliberations and Determination**

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in private. Deliberations will take place in private unless, an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate in private. The Committee shall deliberate only in the company of its legal adviser. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations

require a determination to be made at the conclusion of the hearing, or otherwise where the Committee is unable to announce its determination.

- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

## **6. Record of proceedings**

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including, in either case, any appeal or judicial review).

**APPENDIX B**

**Name of Applicant:**    **Tesco Stores Limited**

**Name of Premises:** **Tesco**

**Address:** **Tesco, Adlard Road, Wheatley Hills, Doncaster, DN2 5NH**

**Summary of Application:**

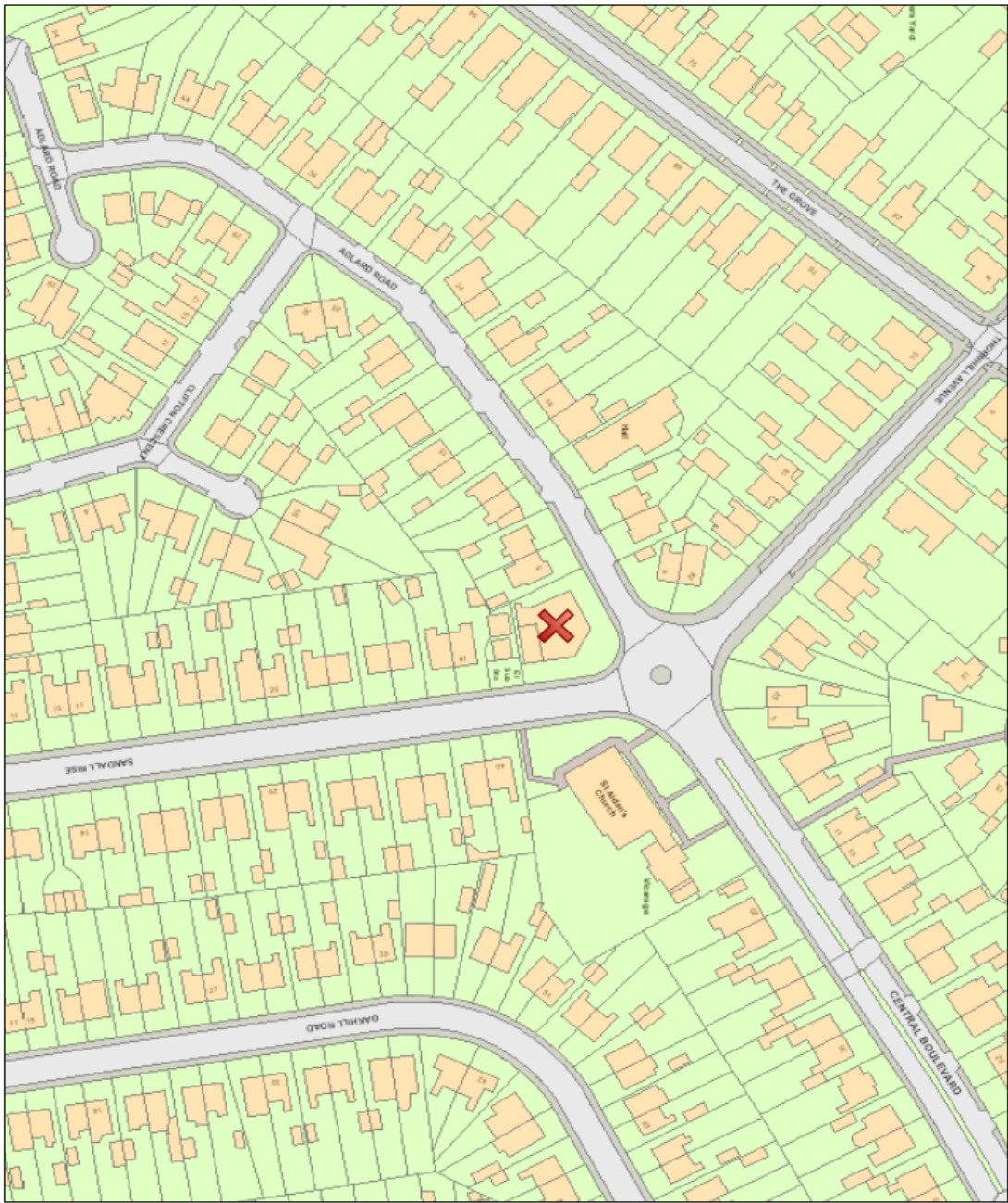
For full details please see copy of application at Appendix D.

	Sale of Alcohol (Off only).	Opening Hours.
	<b>Licensed area (see plan)</b>	<b>Whole of Premises</b>
<b>Mon</b>	07:00 - 23:00	07:00 - 23:00
<b>Tues</b>	07:00 - 23:00	07:00 - 23:00
<b>Wed</b>	07:00 - 23:00	07:00 - 23:00
<b>Thur</b>	07:00 - 23:00	07:00 - 23:00
<b>Fri</b>	07:00 - 23:00	07:00 - 23:00
<b>Sat</b>	07:00 - 23:00	07:00 - 23:00
<b>Sun</b>	07:00 - 23:00	07:00 - 23:00



Non Standard Timings:

**None**

Ordnance Survey Location Plan



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 <b>Doncaster</b> Metropolitan Borough Council	
<b>Key :</b>	 symbol identifies the location of the premises
<b>Notes :</b>	Application to vary premises licence LN/200401524
<b>Title :</b>	TESCO, Adlard Road Wheatley Hills Doncaster DN2 5NH
<b>Completed By :</b>	D Smith
<b>Reference :</b>	WK/216029806
<b>Date :</b>	10/04/2017
<b>Scale :</b>	1:1,563