



**MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE OF THE CABINET**

**THURSDAY 15 AUGUST 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor J McNeil (Chair)
Councillor F McAllister
Councillor J Caldwell
Councillor J McMillan
Councillor D Grant

Council Officials Present:

Ms C Molloy, Legal Adviser
Ms J Mackay, Media Manager
Ms D Richardson, Licensing Administration Officer

Others Present

Ms A Junner, Hill Brown Licensing (Agent for Tesco Stores Ltd)
Mr A Bryce, Manager, Tesco Musselburgh
Mr T A Robertson, Appointed Spokesperson for Objectors

Clerk:

Mrs F Stewart, Committees Assistant

Apologies:

Councillor J Williamson

Declarations of Interest:

None

1. APPLICATION FOR LATE HOURS CATERING LICENCE, TESCO STORES LIMITED, OLIVEBANK ROAD, MUSSELBURGH

A report had been submitted by the Depute Chief Executive, Resources and People Services, to advise the Sub-Committee of objections which had been received to an application by Tesco Stores Limited for a Late Hours Catering Licence in respect of the Tesco Extra store, Olivebank Road, Musselburgh.

The Chair introduced Members of the Sub-Committee, Ms Audrey Junner (agent for Tesco Stores Ltd), Mr Andrew Bryce (Manager, Tesco Express Musselburgh) and Mr T A Robertson, who had been appointed to speak on behalf the objectors.

Catherine Molloy, Legal Adviser, presented the report. She advised that, following the requisite consultation process, the Sub-Committee had formally adopted, at their meeting on 13 December 2012, an amendment to the resolution on the licensing of Late Hours Catering activities in terms of Section 42 of the Civic Government (Scotland) Act 1982. The amendment had substituted the words 'meals and refreshments' in the original resolution, with the word 'food'. This change to the resolution was due to take effect from September 2013. The Legal Adviser explained that, as a result of the change, certain parties who had not required a Late Hours Catering Licence in terms of the original resolution were now required to apply for a licence and Tesco Stores fell into this category. The Tesco store in Musselburgh currently traded on a 24 hour basis but had not previously required a Late Hours Catering Licence as they were not selling what would be classed as 'meals and refreshments' during the hours covered by the Late Hours Catering rules. They would, however, be deemed to be selling 'food' in terms of the amended resolution. As a consequence of this change of wording in the statute and the Council resolution, Tesco Stores had applied to the Council for a Late Hours Catering Licence.

The Chair advised that the Police, who were not present at today's meeting, had no objection to the granting of this licence. The Chair also outlined the procedure for today's meeting.

Ms Junner, representing Hill Brown Licensing, stated that nothing would change at Tesco Musselburgh as a result of the change to the legislation. The store had traded on a 24 hour basis since 2010 and its operations between 11pm and 5 am, for which a licence was now required, would continue as before; there would be no added noise or competition for local retailers.

Mr Robertson, the appointed agent representing the objectors, outlined the concerns of the objectors who resided in the neighbourhood of the store. These included anti-social behaviour, litter, noise and an increased volume of traffic. Ms Junner responded to the allegations, stating that Tesco made every effort to be a good neighbour.

Members discussed the application. Councillor Caldwell, Musselburgh East and Carberry Ward Member, accepted that Tesco had a business to run, but he believed it should not be to the detriment of residents. He was therefore not in favour of granting the licence. Councillor McAllister, Musselburgh West Ward Member, was of the view that Tesco needed to address some major issues, noise in particular, and indicated that he too would vote to reject this application. Councillor Grant stated that he had listened with interest to the issues raised and commented that such issues in relation to large stores could be replicated throughout East Lothian. He considered that Tesco could work harder in their relationships with neighbours but found no reason not to grant the application. Councillor McMillan stated that the issues raised needed to be taken seriously, but he would vote to grant the licence.

The Chair summed up the debate. He stated that the Scottish Government had changed two words in its legislation, and, as a result, all businesses selling food after 11pm would now require a Late Hours Catering Licence. Tesco Stores Ltd was not applying to extend trading hours, as they already traded on a 24 hour basis; their operations therefore, would not change. He acknowledged that there were issues to be resolved but indicated that he was minded to grant the application. However, he added that Tesco management needed to improve its relationship with neighbours. The Sub-Committee would be monitoring the situation, and if appropriate, matters would be referred to the Council's Anti-Social Behaviour Team, Noise Team or litter warden.

Decision

The Sub-Committee considered the terms of the objections received, copies of which were appended to the report together with a response from Tesco Stores Limited, and agreed by a majority of 3 votes to 2 to grant the licence.