

MINUTES OF A MEETING OF A LICENSING SUB-COMMITTEE
6 November 2007 (10.30am – 10.45am)

Present:

COUNCILLORS:

Conservative

Peter Gardner(Chairman)
Melvin Wallace
Pam Light

Mr T Burue on behalf of the Applicant and Ms H Palmer, his legal representative were present. Also present was the LB Havering Licensing Officer. The legal advisor to the Panel and the clerk were also in attendance.

The Chairman advised those present of action to be taken in the event of emergency evacuation of the Town Hall becoming necessary.

There were no declarations of interest.

APPLICATION TO VARY A PREMISES LICENCE IN RESPECT OF SAINSBURY'S SUPERMARKET, 101 – 105, HIGH STREET, HORNBURCH, RM11 1TX.

The Sub-Committee considered the application to vary a licence for the above premises as follows.

1. DETAILS OF APPLICATION

APPLICANT

Sainsbury's Supermarkets Ltd
33 Holborn
LONDON
EC1N 2HT

1. Details of existing licensable activities

Sale of alcohol (off premises)

| Day | Start | Finish |
|--------------------|--------------|---------------|
| Monday to Saturday | 08:00 hours | 23:00 hours |
| Sunday | 10:00 hours | 23:30 hours |
| Good Friday | 08:00hrs | 22:30hrs |
| Christmas Day | 12:00hrs | 15:00hrs and |
| | 19:00hrs | 22:30hrs |

2. Details of requested licensable activities

| Day | Start | Finish |
|------------------|--------------|---------------|
| Monday to Sunday | 06:00 hours | 00:00 hours |

There has been no application for either seasonal variation or non-standard timings

Licensable Activities:

- Sale of alcohol (off sales)

Supply of alcohol:

| Day | Start | Finish |
|------------------|--------------|---------------|
| Monday to Sunday | 07:00 hours | 21:00 hours |

Late night refreshment:

| Day | Start | Finish |
|------------------|--------------|---------------|
| Monday to Sunday | 23:00 hours | 00:00 hours |

3. Promotion of the Licensing Objectives

The applicant has completed the operating schedule, which forms part of his application, that he will take the steps set down to promote the four licensing objectives:

4. Details of Representations

Representations Objecting to the Application from "Interested Parties"

Two valid representations were received from the following members of the public:

Mr P Green, 8, Keswick Avenue, Hornchurch RM11 1XR.
Mrs M Reeve, 17 Fairkytes Avenue, Hornchurch RM11 1XS

One written representation was on the grounds of public safety and protecting children from harm and alleged that later opening for the sale of alcohol would place residents at an increased risk of anti-social and/or violent behaviour. The objector also suggested that the groups of young people already in Hornchurch would be encouraged to proliferate. It was further alleged that it was obvious to see that some of those purchasing alcohol from the store were not eighteen.

The other representation was based on the prevention of public nuisance. It was alleged that a noise nuisance already existed in the streets around the store and that this increase in hours would provide opportunity for that disturbance to become further protracted to the annoyance of residents.

Responsible Authorities

Chief Officer of Metropolitan Police (“the Police”): None

London Fire & Emergency Planning Authority (“LFEPA”): None.

Health & Safety Enforcing Authority: None.

Planning Control & Enforcement: None.

Public Health: None

Children & Families Service: None

Trading Standards Service: None

The Magistrates Court: None

5. Determination of Application

The members of the public who had submitted valid written objections were not present – though Mrs Reeve had notified the Sub-Committee that she would not be able to attend.

The Licensing Officer presented his report and during the course of it, advised the Sub-Committee that the applicant had responded to the objections raised by voluntarily reducing the length of time it was requesting for the sale of alcohol. He added that the changes relating to Christmas were to remove certain practices that were now a trading anomaly.

Members of the Sub-Committee invited the applicant to respond and Ms Palmer explained that her client were puzzled about claims of underage purchasing as the store had an unblemished record (extending back over six months) for passing the Trading Standards test purchases.

The Chairman asked for the applicant to define the request for a “two-week period” over the Christmas period and the Sub-Committee was informed that the applicant wished to stipulate the period 18 December to 1 January inclusive, year on year.

Decision

Consequent upon the hearing held on 6 November 2007, the Sub-Committee's decision regarding the application to vary a Premises Licence for Sainsbury's Supermarket was as set out below, for the reasons shown:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

Decision

Agreed Facts

Facts/Issues

Issue 1

Whether the granting of the premise licence would undermine the prevention of crime and disorder objective.

Issue 2

Whether the granting of the premise licence would undermine the protection of children from harm objective.

Issue 3

Whether the granting of the premise licence would undermine the prevention of public nuisance objective.

Decision

Issue 1

Crime and disorder

The Sub-Committee noted that no evidence had been provided to demonstrate that there were current problems at that location. The Sub-Committee was satisfied that the applicant had addressed this licensing objective in the application and already operated security and safety monitoring equipment.

Decision

Issue 2

Protecting Children from harm

The Sub-Committee noted that the representation from the interested party who expressed concern that children had been

sold alcohol had contained no substantive evidence. The Sub-Committee also noted that no representation had been lodged by either the police or Trading Standards to demonstrate that there had been any failed test purchases and accepted the applicant's assurance that there had been no such failures for at least six months, nor could anyone recall there having been such a failure. The store operated "Challenge 21"

In the absence of any corroboration the Sub-Committee observed that in its opinion, it could not penalise the applicant.

Decision Issue 3

Public Nuisance

The Sub-Committee noted that no evidence had been provided to demonstrate that there were current problems that could be directly attributed to this location.

The Sub-Committee was satisfied that the applicant had addressed this licensing objective in the application and that in the absence of any evidence attributable to the premises, it would not find against the applicant.

The Sub-Committee were referred to the variation submitted by the applicant, which had been made in response to the objections raised. The variation was that:

1. The request for late night refreshment be dropped from the application and that
2. The operating hours be amended to read 06:00hrs to 23:00hrs
3. The applicant could, during a two week Christmas period, avail himself of the longer hours and the late night refreshment.

Having considered the oral and written submissions on behalf of the applicant, objectors and the licensing officer, the Sub-Committee granted the application as follows:

Licensable Activities:

Sale of Alcohol (Off Sales)

| Day | Start | Finish |
|------------------|--------------|---------------|
| Monday to Sunday | 06:00 hours | 23:00 hours |

In addition, the Sub-Committee granted the applicant a **Seasonal Variation** to operate annually between 18 December and 1 January inclusive for the following licensable activities:

Supply of alcohol:

| Day | Start | Finish |
|------------------|--------------|---------------|
| Monday to Sunday | 06:00 hours | 00:00 hours |

Late night refreshment:

| Day | Start | Finish |
|------------------|--------------|---------------|
| Monday to Sunday | 23:00 hours | 00:00 hours |

MANDATORY CONDITIONS

It is a requirement of the 2003 Act that certain mandatory conditions must be included on Premises Licences where the licence authorises the sale of alcohol, or where there is a condition requiring the use of security staff.

Section 19 Licensing Act 2003, Mandatory conditions: where the licence authorises the sale of alcohol

- M1 No supply of alcohol may be made under the Premises Licence;
 - (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or
 - (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
- M2 Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.

No other conditions were imposed on the licence by the Sub-Committee

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CHAIRMAN

Date: