

## **LICENSING SUB-COMMITTEE**

**Monday, 21 September 2020**

Attendance:

Councillors

Mather (Chairperson)

Green

Bentote

Officers in attendance:

Miss B Appletree – Licensing Officer

Mr N Mountney – Litigation Solicitor

[Full audio recording and video recording](#)

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### **1. NEW PREMISES LICENCE – SAINSBURY'S SUPERMARKETS LTD, WINCHESTER ROAD, BISHOPS WALTHAM, SO32 1BA (PREVIOUSLY BUDGENS STORE)**

(Report LR532)

The Chairperson welcomed all those present to the meeting:

#### **Applicant**

- Joanne Surguy – Licensing Manager, Sainsbury's Supermarkets Ltd
- Robert Botkai – Solicitor for the Applicant, Winckworth Sherwood LLP
- Andrew Sanders – Winckworth Sherwood LLP

#### **Representations by Other Persons**

- Parish Councillor Robert Shields (on behalf of Bishops Waltham Parish Council)

The Licensing Officer introduced the report which set out an application for a New Premises Licence under Section 17 of the Licensing Act 2003 for Sainsbury's Supermarkets Ltd, Winchester Road, Bishops Waltham. The premises was previously owned by Budgens Stores Ltd who had held a premises licence permitting the supply of alcohol at the site since 2005.

The application was seeking the supply of alcohol (for consumption off the premises only) as the only licensable activity, between the hours of 0600 and 0000 Monday to Sunday and specified the premises' opening hours as between 0000 and 0000 Monday to Sunday (24 hours), as set out in appendix 1 to the report.

During the consultation period, a number of conditions had been agreed between Hampshire Constabulary and the applicant. These conditions were set out in section 5 of the report.

Furthermore, following consultation with Hampshire County Council's Trading Standards, the applicant had amended the terminal hour for the supply of alcohol to 2300 to promote the prevention of crime and disorder licensing objective.

One valid representation had been received from Bishops Waltham Parish Council, raising objection to the application, in respect of the current operating hours of the Budgens Store and primarily in relation to the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives. Their representation was set out in full in appendix 2.

The Licensing Officer advised the Sub-Committee that the premises licence for the Budgens Store currently permits the supply of alcohol between 0800 to 2300 Monday to Saturday and 1000 to 2230 on Sundays and the opening hours mirrored these times. To provide some context, Hampshire Constabulary had provided crime statistics from the last 12 months at the premises. These consisted of three crime reports: two relating to theft and one relating to anti-social behaviour.

In conclusion, the Licensing Officer advised the Sub-Committee that, if minded to approve the application, there were conditions to consider, as set out in Section 5 of the report, including those conditions agreed by Hampshire Constabulary and the applicant (set out in italics) which the Sub-Committee could amend as appropriate to promote the licensing objectives.

In response to questions from the Sub-Committee, the Licensing Officer clarified that the newly proposed terminal hour for the supply of alcohol of 2300 hours would remain the same as the terminal hour currently in place, with the exception of the terminal hours on Sundays which was currently 2230 hours. However, it was noted the starting hour would change from those hours existing of 0800 hours Monday to Saturday and 1000 hours on Sundays to the proposed starting hour for the supply of alcohol of 0600 hours Monday to Sunday.

At the invitation of the Chairperson, the Solicitor representing the applicant, Mr Botkai, addressed the Sub-Committee and responded to questions. He set out the application as amended and clarified that discussions had taken place with Bishops Waltham Parish Council with an offer to further amend the hours for the supply of alcohol to 0700 hours to 2300 hours Monday to Sunday to help address their concerns.

The Chairperson then invited Parish Councillor Robert Shields to address the Sub-Committee on behalf of Bishops Waltham Parish Council and in respect of their representation as 'Other Persons'. He stated that the morning hours were not of a concern to the Parish Council, the objection was based solely on the store opening hours, specifically the store remaining open beyond 2200 hours; the time that had been referred to in Sainsbury's letter dated 27 July 2020 which had been widely publicised and sent to local residents, as set out in addendum 1

to appendix 2. He stated that opening beyond 2200 hours would result in unacceptable behaviour in a residential area later into the evening.

In conclusion, Parish Councillor Shields stated that, on the basis of the hours set out in Sainsbury's letter dated 27 July 2020 (0800 hours to 2200 hours Monday to Saturday and 1000 hours to 1600 hours on Sundays), local residents and Bishops Waltham Parish Council would welcome Sainsbury's to the area. He urged the Sub-Committee to restrict the opening hours of the store to 2200 hours Monday to Saturday to ensure that the applicant honoured the commitment made to members of the public.

All the points raised were answered by the applicant accordingly.

For clarification, the applicant and the Council's Litigation Solicitor confirmed that this application was to consider the licensable hours for the supply of alcohol and that store opening hours were to be determined by the local planning authority.

In response to questions from the Sub-Committee in relation to the Sainsbury's letter of July 2020, Mr Botkai clarified the difference between the store opening hours and the licensing hours for the supply of alcohol. He confirmed that an existing licence of 0800 hours to 2300 hours for the supply of alcohol was already in place at the existing premises which was transferable between licence holders if required.

Currently Budgens store had chosen to only operate until 2200 hours but had the option to trade for longer. Sainsbury's had submitted a new premises licence application but were seeking no change to the terminal hour to that of the existing licence of 2300 hours. In respect of the store hours stated in the letter dated 27 July 2020, Mr Botkai advised that he was not aware of any immediate change to the terminal store hour of 2200 hours as set out in the letter and clarified that it was common for applications for licensable activities such as the hours for the supply of alcohol to be longer than store opening hours to allow for a degree of flexibility.

In summing up, Mr Botkai confirmed that the application submitted and now revised by Sainsbury's, was not seeking for any extension to the terminal hour beyond that already existing on the current premises of 2300 hours and it was only the hour change to the starting hour for the licence for the supply of alcohol at these premises from 0800 hours to 0700 hours that represented the only change to the existing licence currently held by the Budgens store and to which the Parish Council raised no objection.

The Sub-Committee retired to deliberate in private.

In her closing remarks, the Chairperson stated that the Sub-Committee had carefully considered the application, the representation made by Bishops Waltham Parish Council and the Applicant's evidence received. It had taken into account the Council's Statement of Licensing Policy, the Home Office Guidance issued under section 182 of the Licensing Act 2003, the duties under the Crime and Disorder Act 1998 and the rights set out in the Human Rights Act 1998.

The Sub-Committee has also considered the evidence of police incidents arising on this site in the last year. According to police reports, two incidents of theft and one incident of anti-social behaviour and reference was made to the Parish Council letter of representation, which stated that the Parish Council was not aware of any incidents at the current premises.

The Sub-Committee concluded that the application should be granted, with the conditions set out in section 5 of the report, with the following amendment that the hours for the supply of alcohol should be 0700 hours to 2300 hours Monday to Sunday.

The Chairperson thanked all those present for attending the meeting and explained to all parties that they would be formally notified of the decision in writing in due course and of their right to appeal to the Magistrates' Court within 21 days from the date of notification of the decision.

#### RESOLVED:

1. That the application be granted, subject to the conditions set out in section 5 of the report with an amendment to the hours for the supply of alcohol of 0700 hours to 2300 hours Monday to Sunday, as set out above, for the following reasons:

#### REASON

The Sub-Committee considered that the conditions attached to the licence and as amended above, particularly those conditions agreed between the applicant, Hampshire Constabulary and Hampshire County Council Trading Standards, would adequately promote the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives.

The meeting commenced at 10am and concluded at 11.30 am.

Chairperson