

LICENSING SUB – COMMITTEE

Monday 21 September 2020 10:00 via MS Teams

Report of the Service Lead for Public Protection

Contact Officer: Briony Appletree

Tel No: 01962 848188

Application: Application for the Grant of a New Premises Licence

Premises: Sainsbury's Supermarkets Ltd, Winchester Road, Bishops
Waltham, Southampton, Hampshire, SO32 1BA

Part A. Report

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Part A.**1. Application**

Applicant: Sainsbury's Supermarkets Ltd

Premises: Sainsbury's Supermarkets Ltd, Winchester Road, Bishops Waltham, Southampton, Hampshire, SO32 1BA

- 1.1 This application is for the grant of a new premises licence under section 17 of the Licensing Act 2003 for Sainsbury's Supermarkets Ltd, Winchester Road, Bishops Waltham, Southampton, Hampshire, SO32 1BA.
- 1.2 The premises was previously owned by Budgens Stores Ltd, who have held a premises licence permitting the sale of alcohol at this site since 2005.
- 1.3 The application specifies 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.
- 1.4 The application also specifies the premises' opening hours as between 0000 and 0000 Monday to Sunday (24 hours).
- 1.5 During the consultation period a number of conditions were agreed between Hampshire Constabulary and the applicant. These conditions are reflected in Section 5 of this report.
- 1.6 Following consultation with Hampshire Council Council's Trading Standards team, the applicant amended the terminal hour for the sale of alcohol to 2300 to promote the prevention of crime and disorder licensing objective.
- 1.7 No representations were received by Responsible Authorities.
- 1.8 One representation has been received from Bishops Waltham Parish Council, and is against the application. The representation is set out in Appendix 2 to this report, and primarily relates to the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives.
- 1.9 Notice of the application was displayed outside of the premises for a period of 28 days until 26 August 2020, and advertised in the Hampshire Chronicle on 6 August 2020.
- 1.10 Notices of the hearing were sent to all Parties on 7 September 2020.

Designated Premises Supervisor

Joanne Surguy

Steps to promote the Licensing Objectives

Please see Section M, Appendix 1.

Relevant Representations

2. Responsible Authorities

All of the Responsible Authorities have been served with a copy of the application. The representations received are as follows:

Environmental Health

No representations received.

Hampshire Constabulary

During the consultation period a number of conditions were agreed between Hampshire Constabulary and the applicant. These conditions are reflected in Section 5 of this report.

Hampshire Fire and Rescue Service

No representations received.

Child Protection Team

No representations received.

Building Control

No representations received.

Head of Trading Standards

Following consultation with Hampshire Council Council's Trading Standards team, the applicant amended the terminal hour for the sale of alcohol to 2300 to promote the prevention of crime and disorder licensing objective.

Public Health Manager

No representations received.

Home Office

No representations received.

Licensing Authority

No representations received.

Planning

No representations received.

3. Representations from Other Persons

One representation has been received from Bishops Waltham Parish Council, and is against the application. The representation is set out in Appendix 2 to this report, and primarily relates to the prevention of crime and disorder, public safety and the prevention of public nuisance licensing objectives.

4. Observations

The Sub-Committee is obliged to determine this application with a view to promoting the Licensing Objectives:

- 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 is also obliged to have regard to the National Guidance and the Council's Licensing Policy.

The Sub-Committee must have regard to all of the representations.

The Sub-Committee must take such of the following steps it considers appropriate to promote the Licensing Objectives:

1. Grant the licence subject to conditions in accordance with the operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and the mandatory conditions;
2. exclude from the scope of the licence any of the licensable activities to which the application relates;
3. reject the application.

Terminal hours

The Sub-Committee should take account of the National Guidance and the Council's Licensing Policy with regard to terminal hours and take such steps as it considers appropriate to promote the Licensing Objectives.

(Licensing Policy Part 4, A8)

Licensing Objectives

Crime and Disorder

The Sub-Committee should consider any appropriate conditions to prevent crime and public disorder relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy 1.9, 2.11, 2.17 and Part 4 Section A)

Public Safety

The Sub-Committee should consider any appropriate conditions relating to public safety having regard to the relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, B2, B3)

Public Nuisance

The Sub-Committee should consider any appropriate conditions to prevent public nuisance caused by noise pollution from the premises relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, Section C)

Protection of Children

The Sub-Committee should consider any necessary conditions for the Protection of Children relating to the premises having regard to the operating schedule and the representations.

(Licensing Policy Part 4, D6, D7)

Human Rights

It is considered that Articles 6 (right to a fair trial) 8 (right to respect for private and family life) and Article 1 of the First Protocol (right to peaceable enjoyment of possessions) may be relevant. As there is a right of appeal to the Magistrates' Court, it is considered that there would be no infringement of Article 6. Article 8 is relevant, insofar as the nearby residents could claim that this right would be infringed by disturbance from customers. This should be balanced against the applicants' right to use of their premises under Article 1 of the First Protocol. Interference with these rights is permitted, where this interference is lawful, appropriate in a democratic society, and proportionate. Likewise, the residents may argue that their rights under Article 1 of the First Protocol would be infringed. If conditions are imposed, there should be no interference with any convention rights. To the extent that any interference may occur, it would be justifiable in a democratic society, and proportionate.

5. Conditions

Mandatory Conditions

Where the Licence Authorises Supply of Alcohol:

1. 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.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014

– effective from 1 October 2014

1. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014

– effective from 28 May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1-
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula- $P = D + (D \times V)$ where-
 - (i) **P** is the permitted price,
 - (ii) **D** is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

- (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence-
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
 4. (1) Sub-paragraph 2 applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Possible Conditions

If the application is granted, the Sub-Committee may wish to consider the following conditions to reflect the Operating Schedule. Conditions in italics are those agreed between the applicant and Hampshire Constabulary during the consultation period.

Operating Hours

2. The hours the premises may be used for the sale of alcohol shall be:

Monday to Sunday 0600 to 2300

3. The hours the premises may open for other than Licensable Activities shall be:

Monday to Sunday 0000 to 0000

All Licensing Objectives

A1: Training

- (i) *All staff engaged or to be engaged in the sale of alcohol on the premises shall receive training in age restricted sales.*
- (ii) *Induction training must be completed and documented prior to the sale of alcohol by the staff member.*
- (iii) *Refresher/reinforcement training must be completed and documented at intervals of no more than 6 months.*
- (iv) *Training records will be kept at the premises available for inspection by a police officer or other authorised officer on request.*

Crime and Disorder

CD1: CCTV

- (i) The licence holder will ensure that the premises benefit from a CCTV system that operates at all times when licensable activities are taking place.
- (ii) The system will incorporate a camera covering each of the entrance doors and the main alcohol display area and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
- (iii) The system will incorporate a recording facility and any recording will be retained and stored in a suitable and secure manner for a minimum of 30 days and will be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
- (iv) The system must be able to export recorded images to a removable means e.g. CD/DVD and have its own software enabled to allow playback/review.
- (v) A member of staff trained in the use of the CCTV system must be available at the premises at all times that the premises are open to the public.
- (vi) The system will display, on any recording, the correct time and date of the recording.

CD2: Refusals

- (i) *All cashiers shall be trained to record refusals of sales of alcohol in a refusals register. The register will contain:*
- *details of the time and date the refusal was made;*
 - *the identity of the staff member refusing the sale;*
 - *details of the alcohol the person attempted to purchase.*
- (ii) *This register will be available for inspection by a police officer or other authorised officer on request.*

Public Safety

PS1: The licence holder will at all times maintain adequate levels of staff and security. Such staff and security levels will be disclosed, on request, to the licensing authority and police.

Public Nuisance

PN1: Signage will be displayed at the exit of the premises requesting customers leaving the premises late at night to do so quietly and with consideration so as not to disturb nearby residents.

Protection of Children

PC1: The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.

6. Other Considerations

Council Strategy Outcome (Relevance To:)

This report relates to the fourth Strategic Outcome; 'Improving the quality of the District's environment' by working with partners and using powers available to us to make Winchester a safe and pleasant place to live, work and visit.

Resource Implications

A statutory licence fee of £635.00 has been received. It is anticipated that an appropriate level of officer attendance will be provided within the existing budget.

Appendices

1. Application by Sainsbury's Supermarkets Ltd
2. Representations by Other Persons
 - Addendum 1 to Appendix 2 – Additional Material submitted by Bishops Waltham Parish Council (Sainsbury's letter)
3. Map of Premises Location