

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Sub-Committee **Date:** 4 August 2015

Place: Council Chamber, Civic Offices, **Time:** 10.05 - 11.20 am
High Street, Epping

Members Present: R Morgan (Chairman), B Surtees and T Thomas

Other Councillors: K Chana

Apologies:

Officers Present: R Ferriera (Assistant Solicitor), K Tuckey (Licensing Manager) and G J Woodhall (Senior Democratic Services Officer)

8. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

9. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Sub-Committee noted the agreed procedure for the conduct of business.

10. PREMISES LICENCE - SAINSBURY'S SUPERMARKETS LIMITED, FORMER PUBLIC CAR PARK, CHURCH HILL, LOUGHTON, ESSEX IG10 1QR

The three Councillors that presided over this item were Councillors Morgan, Surtees and Thomas. The Chairman welcomed the participants and requested that they introduced themselves. In attendance on behalf of the application were: Mr R Gilbert, the Store Manager and Designated Premises Supervisor; and Mr R Potkai, from Winckworth Sherwood who were acting as Solicitors for Sainsbury's Supermarkets Limited. In attendance on behalf of the Objectors were: Mr B Gell; Mr A Horne; and Mr D Jarrett, all of whom were local residents. The Chairman then introduced the Members and Officers present, and outlined the procedure that would be followed for the determination of the application.

The Application before the Sub-Committee

The Senior Licensing Officer informed the Sub-Committee that an application for a Premises Licence had been received in respect of the new Sainsbury's Supermarket at the former public car park in Church Hill, Loughton. This had generated a number of representations from interested parties.

The application had requested permission to sell alcohol from 7.00am to 11.00pm each day Monday to Sunday, with the opening hours of the Supermarket being midnight to midnight each day Monday to Sunday. The application had acknowledged that the opening hours were not a licensable activity and the Applicant had subsequently revised the opening hours to be 7.00am to 11.00pm each day Monday to Sunday.

Presentation of the Applicant's Case

Mr Potkai apologised for the confusion over the application and stated that Sainsbury's were never applying for a "24-7" licence. A revision had been made to the application such that the Opening Hours of the Store now matched the Supply of Alcohol hours originally requested. It was highlighted that the Opening Hours of the Store had been dealt with and agreed as part of the planning application that had been submitted, and the Sub-Committee was only considering the Supply of Alcohol hours. It was emphasised that there had been no objections received from the statutory consultees and that the guidance from the Government was for shops to be permitted to sell alcohol when they were open unless there was a good reason for this not to be allowed.

Mr Potkai reassured the Committee that the 7.00am start for the sale of alcohol had been requested as part of the application to avoid the need to close part of the store to the public. There were very few sales of alcohol at 7.00am and these were the standard hours for a Sainsbury's Local store. The Supply of Alcohol hours requested would match those agreed for the adjacent Co-Operative store, and most Off-Licences would be permitted to supply alcohol until 11.00pm on Mondays to Saturdays.

Mr Potkai drew the Sub-Committee's attention to the four further conditions offered for the proposed Licence since the application had been submitted. These involved:

- (i) Staff training for age restricted sales, including regular refresher courses;
- (ii) Refusals of sales of alcohol to be logged in a register with full details;
- (iii) A Register to be maintained to record all incidents of Crime & Disorder and occasions when the Police were called to the Premises; and
- (iv) No self-service of spirits with an alcohol content exceeding 5.5% by volume.

Mr Potkai acknowledged the anxieties raised by local residents regarding noise and parking disturbances; however, the Police had not raised any concerns over the application, the need or otherwise for another establishment to sell alcohol in the vicinity was not a factor for objection and therefore was irrelevant and, in practice, Sainsbury's Local stores tended to be fairly quiet after 9.00pm and there had been no issues reported at other such stores. In relation to other points raised by residents, there had been no failure to consult as there had been the required notice in the local newspaper and blue notices erected at the site of the store, the adjacent Co-Operative store and nearby Petrol Station were already permitted to sell alcohol until 11.00pm in the evening, any drug taking in the area was not relevant to this application, and the Luxe Bar in Loughton High Road was a considerable distance away from the Store. The additional condition offered for all staff to undertake training in age restricted sales was reiterated, there were currently no reported instances of drinking on the outside benches provided by the Public House next door after it had closed, the Licence would not set a precedent for the area, and there would be no impact on road safety from the supply of alcohol at the Store.

In conclusion, Mr Potkai stated that the residents had understandable concerns about changes to their area, but emphasised that changes can also be beneficial. Contact details for the Store Manager could be provided to the residents so that any incidents could be reported directly by residents to the store.

Questions for the Applicant from the Sub-Committee

In response to questions from the Sub-Committee, Mr Potkai stated that November 2015 was the target opening date for the store, and that there would be 16 parking spaces for customers of the store to use on the site. It was reiterated that there would be no self-service of spirits; the customer would need to ask a Cashier, and that the self-scanning units would automatically block the sale of alcoholic items until a Cashier had authorised them and confirmed the purchaser was over the age of 21. The store would have at least four staff on duty after 9.00pm each evening, and alcohol accounted for approximately 8-12% of the total sales of such stores. There had been no staff disciplinary issues arising within Sainsbury's over the sale of alcohol.

Questions for the Applicant from the Objectors

In response to questions from the Objectors, Mr Potkai stated that the opening hours of the store would have been considered as part of the planning application and 7.00am to 11.00pm were the standard opening hours for a Sainsbury's Local store. The assessment of the effect on neighbours from the store's opening hours would have been carried out as part of the planning application. The vast majority of Sainsbury's Local stores remained open until 11.00pm or 12.00am (midnight), and the adjacent Co-Operative store and Esso Petrol Station had licenses to sell alcohol until 11.00pm each evening. Mr Gilbert added that the format of a Sainsbury's Local store was for convenience shopping, hence the standard opening hours of 7.00am to 11.00pm. Mr Potkai reminded the Sub-Committee that there were 400 Sainsbury's Local stores around the country and the vast majority traded at the same hours as requested in this instance; any differences would be due to local planning conditions imposed on the particular store taking into account local factors.

Mr Potkai reminded the Sub-Committee that there were Off-Licence stores in the area already and that the Police had not reported any problems with off sales being consumed at the seating outside of the Prince of Wales public house. The Objectors were reminded that they had the power of Review if the Licence was granted and directly led to such disturbances occurring at this seating; however, it was not the experience of Sainsbury's Supermarkets Limited that this sort of behaviour occurred outside its Local stores.

Presentation of the Objector's Case

The Objectors highlighted that Church Hill in Loughton was a residential area, not a town centre or out-of-town location. With a closing time of 11.00pm, there would be disruption generated by activity at the store after this time as the staff would still have to shut the store down. In addition, there would also be considerable activity before 7.00am as the staff readied the store for opening. Therefore, residents were concerned about the hours requested, and there would also be flats and apartments on top of the store. Research had indicated that other supermarkets in the area had closing times of either 9.00pm or 10.00pm, and therefore the hours permitted for this store should not exceed those already permitted in the area. There was a proven link between alcohol and crime, and if this application was granted then the store would become the local destination for the purchase of late night liquor. It was also pointed out that the parking spaces shown on the map were also for the residents of the flats above and not solely reserved for customers of the store.

The Sub-Committee was requested to consider the case on its merits and impose a later opening time with an earlier closing time.

Questions for the Objectors from the Sub-Committee

The Sub-Committee sought clarification concerning the potential restriction of the store's opening hours. The Assistant Solicitor advised the Sub-Committee that the opening hours of the store was usually a planning matter not a Licensing activity. However, if the Opening Hours had been included on the application form then the Sub-Committee could restrict the Opening Hours if it was felt necessary.

The Objectors added that if the opening hours of the Store were restricted then the Sale of Alcohol hours would also be restricted as well. It was emphasised that the noise generated by the store opening at 7.00am would be the same regardless of whether alcohol was being sold or not.

Questions for the Objectors from the Applicant

Mr Potkai informed the Sub-Committee that there were no questions from the Applicant for the Objectors.

The Objector's Closing Statement

The Objectors stated that they had nothing further to add.

The Applicant's Closing Statement

Mr Potkai asked the Sub-Committee to consider that if the store was already open from 7.00am to 11.00pm then would the sale of alcohol during these hours increase the level of disturbance to the neighbours; no it would not, and this had all been considered as part of the planning application for the site. This store would not be restricted by the Sunday Trading Laws; Sainsbury's Local stores generally traded between the hours of 7.00am and 11.00pm and customers wanted their convenience stores to be open during these times, although it was accepted that a small number of these stores did close at 10.00pm, mainly for commercial reasons.

Mr Potkai stated that the purchasers of the flats above would know of the existence of the store before they completed their purchase, and the highways issues at the site had also been considered and dealt with as part of the planning application.

Mr Potkai contended that the majority of the representations received from the Objectors were a fear of what might happen, not what would happen, and the Sub-Committee were reminded that the Objectors had the power to request the Licence to be reviewed if there were disturbances arising from the hours requested for the Sale of Alcohol at the premises.

Consideration of the Application by the Sub-Committee

The Sub-Committee discussed the merits of the case and considered the comments of the Objectors very carefully. The Sub-Committee received no further legal or procedural advice from the Officers present. The Sub-Committee agreed that the application should be granted, as per the amended application with the revised opening hours of 7.00am to 11.00pm each day, Monday to Sunday, in accordance with the Council's standard terms and conditions and the four additional conditions offered by the Applicant at the meeting. The Chairman informed the participants of the decision reached by the Sub-Committee, reminded the Applicant of their right to appeal to a Magistrates Court within 21 days, and reminded the Objectors of their right to have the licence reviewed if there were disturbances at the location arising from the sale of alcohol during the hours requested.

Resolved:

(1) That the application for a Premises Licence at the Sainsbury's Local Store at the former Car Park in Church Hill, Loughton be granted subject to the Council's standard terms and conditions, and the following additional conditions agreed at the meeting which the Sub-Committee had considered to be appropriate, proportionate and in the interests of the public:

(a) that the premises be permitted to supply alcohol between the hours of 7.00am and 11.00pm each day Monday to Sunday;

(b) that the premises be permitted to open for licensable activities between the hours of 7.00am and 11.00pm each day Monday to Sunday;

(c) that all staff engaged or to be engaged in the sale of alcohol on the premises be required to undertake the following training in age restricted sales:

(i) induction training to be completed and documented prior to the sale of any alcohol by the member of staff;

(ii) refresher/reinforcement training to be completed at intervals not exceeding six months; and

(iii) all such training records to be kept at the premises and be available for inspection by a Police Officer on request;

(d) that all cashiers be required to record refusals of sales of alcohol in a register, which would contain the following information:

(i) details of the time and date of the refusal;

(ii) the identity of the member of staff refusing the sale;

(iii) details of the alcohol attempted to be purchased; and

(iv) this register to be kept at the premises and available for inspection by a Police Officer on request;

(e) that an Incidents Register be maintained at the premises, which would contain the following information:

(i) all incidents of crime and disorder occurring at the premises;

(ii) details of all occasions when the Police were called to the premises to deal with an incident; and

(iii) this register to be available for inspection by a Police Officer on request; and

(f) that no self service of spirits be permitted, except for spirit mixtures not exceeding 5.5% alcohol content by volume.

11. EXCLUSION OF PUBLIC AND PRESS

The Sub-Committee noted that there was no business which necessitated the exclusion of the public and press.

CHAIRMAN