

Licensing Sub Committee

A meeting of Licensing Sub Committee was held on Thursday, 5th November, 2009.

Present: Cllr Dick Cains, Cllr Maurice Perry and Cllr Bill Woodhead.

Officers: C Snowden, M Vaines, V Wilford (DNS); J Nertney (LD).

Also in attendance: Applicant: Sainsburys – represented by Mr Botkai, Solicitor – also in attendance members of Sainsburys store management (Ms Wood and Mr Anstay), Two local residents that had made representation.

Apologies: None.

**LSC
16/09** **Appointment of Chairman**

RESOLVED that Councillor Woodhead be appointed Chairman for this meeting only.

**LSC
17/09** **Declarations of Interest**

There were no interests declared.

**LSC
18/09** **Sainsbury's, 2-6 Durham Lane, Eaglescliffe, Stockton on Tees -
Application for Variation of a Premise Licence under the Licensing Act
2003.**

The Chairman introduced all persons who were present and explained the procedure to be followed during the hearing.

The Licensing Officer presented the report to the Committee. Consideration was given to the application as outlined in the report. Members noted and gave consideration to the representations that had been received. The Applicant informed the Committee that Cleveland Police had not made any representation to the application. The applicant had also agreed a number of conditions with the Local safeguarding Children Board. The applicant had also been contacted by the Councils Environmental Health and Trading Standards section with proposed conditions. Five representations had been received from persons living within the vicinity of the premises.

Mr Botkai (Solicitor representing the applicant) stated that Sainsburys store at 2-6 Durham Lane was licensed to supply alcohol between 06:00 and 23:00 hours. The application in summary was to request an additional hour for the supply of alcohol and to provide late night refreshment for an additional hour. Mr Botkai stated that the application was not to open the store for 24 hours as they could do so already under their planning permission.

Mr Botkai stated that even if granted it did not mean that the company would utilise the extra hour for licensable activities. Sainsburys acquired a large number of Bells and Jacksons stores all of which may have had differing conditions and hours on their licences. Sainsburys were undertaking a process of standardising their hours and conditions in order to allow easier management of their premises.

Mr Botkai stated that issues concerning litter could hopefully be dealt with by the store management and if the members of the public were not satisfied then this could be taken up by them with the Environmental Health section of the Council.

The question for the Committee and residents to consider was what impact a licence from 23:00 to 24:00 hours would have on the community.

Mr Botkai explained the legal position concerning the sale of hot food or drink and the requirement for a late night refreshment licence.

Mr Botkai stated that Cleveland Police had not objected and therefore must be satisfied that crime and disorder would not be undermined if the licence was granted. Some of the statements included in the representations stated that this was a quiet area. Unless there was evidence that the premise was linked to problems at 23:00 hours then there were no grounds for refusing the application to open till 24:00 hours.

Mr Botkai stated that he had agreed to amend the agreed conditions so that CCTV images would be provided to other responsible authorities. Mr Botkai stated that in his view the conditions requested by Trading Standards were already provided within the operating schedule and there was therefore no need for the Committee to impose additional conditions. Conditions should only be imposed if they were necessary and as the company already complied with the suggested requested conditions there was no need for them to be placed on the licence as conditions. Mr Botkai stated that Sainsburys currently trained staff every six months and in the absence of complaints or issues at the store it was unnecessary to attach a condition requiring training every three months.

The following conditions had been agreed with the Applicant and the representation had therefore been withdrawn:-

- The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 21 years (or older of the licence holder so elects) for evidence of age. The evidence shall be photographic, such as passport or photographic driving licence until such other effective identification technology (for example thumb print or pupil recognition) is introduced. All cashiers will be instructed through training, that a sale shall not be made unless this evidence is produced.
- All cashiers shall be instructed, through training, to enter in a refusal book (or electronic equivalent) details of any refusal to make a sale of alcohol to a customer.

A representation had been made by Environmental Health. Mr Snowdon explained that consideration be given to placing a number of conditions on the licence.

A representation had been made by Trading Standards. Mrs Wilford explained that consideration be given to placing a number of conditions on the licence.

Mrs Wilford confirmed that two test purchases had been carried out by Trading Standards at the premise and both had been unsuccessful.

The Committee had regard to the representations which had been received from five persons living within the vicinity of the premise.

The Committee also heard submissions from two local residents who lived within the vicinity of the premises and had made a relevant representation. They were concerned about deliveries, youths hanging around the shops and litter connected with customers of the premise.

When considering their decision the Committee had regard to the Statutory guidance issued under Section 182 of the Licensing Act 2003, the Councils Licensing Policy and relevant case law.

Members had regard to the oral representations made to them and the five representations from persons living within the vicinity of the premises.

The Committee noted that the Objectors concerns were general in nature and were concerned about what may happen rather than having any evidence that the premise would cause a problem. The Committee were mindful of relevant case law which indicated that residents fears over an application were not sufficient grounds for refusal. The Committee were also mindful of the fact that their main consideration in this matter was over the request by the applicant for an additional hour for late night refreshment and supply of alcohol from 23:00 to 24:00 hours. It was noted that the Police had no objection to the application and there were no statistics before the Committee of crime and disorder in the immediate area. The Committee noted that this was not a review application. There was no evidence that the responsible authorities or persons living within the vicinity of the premises had raised any complaints with the premise concerning their management.

The Committee were satisfied that the likelihood of noise nuisance from the premise was minimal.

The Committee were satisfied that if the application was granted the licensing objectives would not be undermined.

RESOLVED that:-

- The application be granted for provision of late night refreshment between the following hours:-
Monday to Sunday: 23:00 to 24:00
- To grant the application for the supply of alcohol for an additional hour between the following hours:-
Monday to Sunday: 23:00 to 24:00
- To remove the embedded restrictions contained with Annex 1 of the premises licence.
- To remove the conditions in Annex 2 of the premises licence and replace them with the conditions in boxes (b) to (e) of Section P of the application form.
- To attach the following additional conditions to the licence:-

1. The licence holder shall ensure that all cashiers are trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 21 years (or older of the licence holder so elects) for evidence of age. The evidence shall be photographic, such as passport, photographic driving licence or PASS approved proof of age card such as a Validate Card, Portman Group Card or a Citizen Card until such other effective identification technology (for example thumb print or pupil recognition) is introduced. All cashiers will be instructed through training, that a sale shall not be made unless this evidence is produced.
2. All cashiers shall be instructed, through training, to enter in a refusal book (or electronic equivalent) details of any refusal to make a sale of alcohol to a customer.
3. The CCTV condition to be amended to include after the words "to the police" to add "licensing authority and responsible authorities" as persons who must have the CCTV made available to them on request.