



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (3)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (3)** Committee held on **Thursday 15th September, 2016**, Rooms 5, 6 & 7 - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

Members Present: Councillors Melvyn Caplan (Chairman), Louise Hyams and Rita Begum

1 MEMBERSHIP

There were no changes to the membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest from any of the members present.

3 SAINSBURY'S, UNIT R17, PADDINGTON STATION, PRAED STREET, W2

LICENSING SUB-COMMITTEE No. 3

Thursday 15th September 2016

Membership: Councillor Melvyn Caplan (Chairman), Councillor Louise Hyams and Councillor Rita Begum

Legal Adviser: Barry Panto

Committee Officer: Tristan Fieldsend

Presenting Officer: Claire Hayes

Relevant Representations: Paddington Waterways & Maida Vale Society and South East Bayswater Residents' Association.

Present: Mr Robert Botkai (Solicitor, Representing the Applicant), Ms Joanne Surguy (Licensing Manager, Representing the Applicant), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project, representing Paddington Waterways & Maida Vale Society and South East Bayswater Residents' Association) and Mr John Zamit (South East Bayswater Residents' Association).

**Sainsbury's, Unit R17, Paddington Station, Praed Street, London
16/07713/LIPV**

1. Off Sales by Retail of Alcohol

Licensable Area

Current

Basement, ground and first floor.

Proposed

Addition of an extended entrance on the ground floor.

Seasonal Variations

Current

Christmas Day: 12:00 to 15:00 and
19:00 to 22:30

Good Friday: 08:00 to 22:30

Proposed

Removal of seasonal variations to allow alcohol to be sold in line with current permitted hours.

2. Hours Premises are Open to the Public

Current Hours

Monday to Saturday: 08:00 – 23:00
Sunday: 10:00 – 22:30

Proposed

Monday to Sunday: 00:00 – 00:00

Premises Area

Current

Basement, ground and first floor.

Proposed

Addition of an extended entrance on the ground floor.

3. Layout Alteration

To add an extended entrance on the ground floor in conjunction with the redevelopment of Paddington Station. No licensable activities will take place in the additional area. It is proposed that the area will not be used until October 2016.

4. Conditions Being Varied, Added or Removed

	Condition	Proposed Variation
	<p>Condition 5: To remove condition 5 on the current licence relating to the times for the sale of alcohol to remove the restricted hours on Christmas Day and Good Friday.</p>	<p>Proposed variation: To remove</p>
	<p>Condition 6: To remove condition 6 which reads that alcohol shall not be sold in an open container or be consumed in the licensed premises.</p>	<p>To be replaced with: All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.</p>
	<p>To add additional conditions relating to:</p> <ul style="list-style-type: none"> • CCTV. • Securing alcohol outside the authorised times for the sale of alcohol. • The percentage of the area for sale, exposure and display of alcohol. • The keeping of an incident book. • Levels of staffing and security. • Signage. • Waste and recycling. • Age verification policy. • Staff training in age restricted sales. • Staff training to record refusals of sales of alcohol. 	
	<p>Amendments to application advised at hearing:</p> <p>None</p>	
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee considered an application by Sainsbury's Supermarkets Limited for a variation of a premises licence in respect of Unit R17, Paddington Station, Praed Street, London, W2 1RH.</p> <p>The Licensing Officer provided an outline of the application to the Sub-Committee.</p> <p>All parties were invited to make representations to the Sub-Committee in relation to the application. The parties responded to members' questions and were given an opportunity to ask questions of each other.</p> <p>Mr Botkai, representing the applicant, explained that Network Rail was in the process of redeveloping Paddington Station which had resulted in Sainsbury's being forced to take on extra floor space at their premises. This would not</p>	

however, change the internal layout of the store and no extra alcohol would be on display. Due to the extra floor space the applicant was required to submit a variation of the premises licence and therefore it provided an opportunity to amend some existing conditions to modernise the licence and bring it in to line with Westminster City Council's model conditions. This included changing the seasonal variations for the sale of alcohol on Christmas Day and Good Friday in order to standardise the hours throughout the year.

Mr Botkai expressed his applicant's frustration that the matter had not been resolved before coming to the Licensing Sub-Committee. The addition of a glass box to the entrance of the premises was not likely to have any impact on the licensing objectives and the representations received did not relate to this change. Therefore the relevance of the representations was queried. Using a variation of a premises licence to standardise conditions was appropriate and residents' associations should be encouraging local businesses rather than using the variation as an opportunity to place extra restrictions on them. The premises was not the focus of disorder in the local area and only two high strength beers were for sale.

Mr Brown, from Westminster Citizens Advice Bureau represented the two residents' associations who had made the representations, advised that there was also frustration that this had not been resolved earlier. The addition of two extra conditions requesting no sales of super-strength beer, lagers or spirit mixtures and also no sales of miniature bottles of spirits would not hinder local businesses. The relevance of the representations was that the application was not just about a change in the layout but also the extended opening hours. Requiring additional conditions to be implemented would update the licence and bring it in line with best practice.

Concern was expressed by Mr Brown that the benches situated within the premises attracted people to sit on them and drink alcohol. In response Mr Botkai explained that it was thought these would be removed and replaced with an ambient area during the redevelopment.

Mr Brown highlighted the issues of street drinking in the area and it was felt extending the premises opening hours would exacerbate the problem. There was no suggestion Sainsbury's was the focus of this issue but it was felt the adoption of the two conditions regarding super-strength beers and miniatures would help deter street drinking and safeguard local residents'. It was noted Sainsbury's currently didn't sell any miniatures and had only sold sixteen cans of super-strength beer since March 2016 so the adoption of the two proposed conditions would have no commercial impact on the store. The requested standardised conditions targeted a specific problem which had been identified, were proportionate and encouraged best practice.

Mr Zamit, representing the South East Bayswater Residents' Association, also expressed disappointment the application had come before the Licensing Sub-Committee. The Association supported and encouraged businesses but street drinking was an issue in Paddington with the station a particular problem area. He had observed people purchasing alcohol in the store and drinking it on the benches and therefore considered the proposed additional conditions as

appropriate.

The Chairman remarked that the premises had been operating for over ten years without the additional conditions being sought by the residents' associations with no reported incidents or problems. A question was raised why in these circumstances it was now considered necessary to impose extra conditions on the licence?

Mr Brown replied that the test for applying conditions to a licence was appropriateness and for this application it was a case of updating the licence according to best practice to address issues identified by the residents' associations. In that context the conditions were appropriate as they would help safeguard the licensing objectives.

Mr Botkai was of the opinion that the conditions were not relevant to the application. Whilst it was impossible to identify which premises had sold alcohol to street drinkers it could be established that it was not Sainsbury's as only sixteen cans of super strength beer had been sold from the premises since March 2016.

A question was raised over what training was provided to Sainsbury's staff to help alleviate the issues around street drinking in the area. In response Miss Surguy explained that a robust training scheme was in place. Staff were required to achieve a 100% pass grade when undertaking the Think 25 training package and only then would they be able to work in the store. The training dealt with issues such as street drinkers and once completed observation tests would be undertaken with refresher training provided every six months. There was also close cooperation with the police to help prevent any problems.

The Sub-Committee listened very carefully to the representations and why it had been impossible to reach an agreement on the application. The Sub-Committee was aware of the problems of street drinking in the area and gave careful consideration to these issues. A point had been raised suggesting that customers had been observed purchasing alcohol and drinking it on the premises. Staff were trained to deal with such instances if they occurred but residents' were also encouraged to report any such incidents. It was recognised that the application was a variation to a licence and this was an important point in terms of making a decision. As the application was a variation the Sub-Committee was in agreement that this did not provide an opportunity to use the process to amend the existing licence. This was not a review opportunity and it was important that any conditions imposed were relevant and specific. No evidence had been displayed that the current licence had contributed to street drinking and therefore the Sub-Committee did not consider the conditions put forward by the residents' associations were relevant and as such the application was granted as applied for.

The Sub-Committee also agreed to amend, remove or add the following conditions to the licence:

- Removal of Condition 5;

- Variation to Condition 6;
- Additional Conditions relating to:
 - CCTV.
 - Securing alcohol outside the authorised times for the sale of alcohol.
 - The percentage of the area for sale, exposure and display of alcohol.
 - The keeping of an incident book.
 - Levels of staffing and security.
 - Signage.
 - Waste and recycling.
 - Age verification policy.
 - Staff training in age restricted sales.
 - Staff training to record refusals of sales of alcohol.

Conditions attached to the Licence

Mandatory Conditions

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4. (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.
- 5(i) 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.
- 5(ii) For the purposes of the condition set out in paragraph 5(i) above –

(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 amount 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) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

5(iii). Where the permitted price given by Paragraph 5(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that subparagraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

5(iv). (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(ii)(b) above 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.

6. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

Conditions Consistent with the Operating Schedule

7. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any

light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

8. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

9. Outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, the licence holder shall ensure that all alcohol within the trading area of the premises (and for the avoidance of doubt this does not include the alcohol behind the counter) is secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by customers.

10. No more than 15% of the sales area shall be used at any one time for the sales, exposure for sale, or display of alcohol.

11. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:

- a) All crimes reported to the venue
- b) Any complaints received concerning crime and disorder
- c) Any incidents of disorder
- d) Any faults in the CCTV system
- e) Any refusal of the sale of alcohol
- f) Any visit by a relevant authority or emergency service

12. The premises 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.

13. 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.

14. All waste or recycling shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

15. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to 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 (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or a photo card driving licence bearing a holographic mark or other form of identification bearing the customer's photograph, date of birth and the Proof of Age Standards Scheme (or similarly accredited scheme) hologram or other form of identification that complies with any mandatory condition that may

apply to this licence.

16. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction Training which must be completed and documented prior to the sale of alcohol by the staff member.
- Refresher/reinforcement training at intervals of no more than 6 months.

Training records will be kept at the premises available for inspection by the police or authorised officer on request.

17. 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.

The register will be made available for inspection at the premises by the police or an authorised officer of the licensing authority at all times when the premises are open.

The Meeting ended at 10.47 am

CHAIRMAN: _____

DATE _____