

Licensing Sub Committee B - 30 June 2020

Minutes of the meeting of the Licensing Sub Committee B held by Zoom on 30 June 2020 at 6.30 pm.

Present: **Councillors:** Sheila Chapman, Vivien Cutler and Phil Graham.

Councillor Phil Graham in the Chair

- 151 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Phil Graham welcomed everyone to the meeting and introduced officers and members. The licensing officer introduced herself, the interested parties and the applicant. The procedure for the conduct of the meeting was outlined.
- 152 **APOLOGIES FOR ABSENCE (Item A2)**
Apologies for absence were received from Councillor Matt Nathan.
- 153 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
Councillor Chapman substituted for Councillor Nathan.
- 154 **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 155 **ORDER OF BUSINESS (Item A5)**
The order of business would be as the agenda.
- 156 **MINUTES OF PREVIOUS MEETING (Item A6)**
RESOLVED:
That the minutes of the meeting held on 19 May and 1 June 2020 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 157 **SAINSBURYS, 91-93 ST JOHN'S STREET, EC1M 4NU - PREMISES LICENCE VARIATION (Item B1)**
The licensing officer reported that the applicant had revised the terminal hour to 10pm each day. It was confirmed that the premises was in a cumulative impact zone.

The residents, in objection to the application, stated that the early hour for the sale of alcohol was a problem as there were two local nightclubs and patrons congregated near the off-licence in the early hours. Passing Alley, next to the premises, was a public nuisance with broken bottles and groups using it as a public toilet. The CCTV installed for the alley did not appear to be much of a deterrent. Groups of people congregated and were intimidating for residents. Sainsbury's had been there for the lunchtime trade and had closed during lockdown. Increasing their hours would only benefit the late night club trade. The premises were in a

cumulative impact area and patrons would buy alcohol to pre-load before going to the nightclub and visit in the morning once the night clubs had closed. This would be a particular issue on Saturday and Sunday mornings. There were already too many off-licences in the area. If they wished to serve the community, they would not have closed during lockdown.

In response to questions it was noted that large groups of about 15/20 people gathered near the premises between the hours of 8am and 10am. They would be in various stages of inebriation. The resident had contacted the Council to complain about the issue, particularly regarding drug taking. A resident had seen cans and bottles in their hands but could not be sure where they had been purchased. Residents did not stay around because of the nuisance but stated that groups of 15/20 coming out of nightclubs in the morning was a problem and was concerned with the early licensing hour, 7 days a week. The residents did not accept the reduction in hour as they considered that the issues with litter/broken glass/vape canisters would still occur if the terminal hour was 10pm. It was stated that, Sainsbury's would provide a magnet for patrons of the nightclubs with the later hours.

The applicant stated that an application had been made in 2013 which was refused. A further application was made in 2015 which was agreed with the current hours. The applicant stated that 8am to 11pm was within normal framework hours but the concern of residents was appreciated and so the terminal hour had been amended to 10pm. With Covid lockdown the store had lost 90% of the trade overnight as it catered for mainly students and office workers. Supermarkets moved to a greater online market and staff were moved to deal with this. Following the previous hearing in 2015, CCTV and signage had been placed in Passing Alley. This area was monitored although it was not owned by Sainsbury's. There had been no issues in the morning from the nightclubs and no complaints made by residents. Responsible authorities had objected in 2015 but had not done so on this application. The nightclubs were some distance away and there was a Waitrose and a Tesco supermarket with longer hours and nearer to Fabric. There was also a Sainsbury's that was nearer to Club Reina. There was no evidence to support the statements made by residents. They had tried to build the hours within the framework hours. The current hours were a handicap to the store as customers that bought food at 8pm were unable to buy alcohol with the food and leave without purchasing any products. This left customers frustrated. It was recognised that they did not wish to contribute to the late night economy after 10pm. If there was a group gathering in the morning, Sainsbury's would willingly suspend the hours. They worked with the police and the licensing authority and would act voluntarily. Customers who could not purchase alcohol from this store would purchase it from another store so the licence would not add to the cumulative impact. As an exception to the policy, there was good management in place, it was not alcohol led, there had been no complaints or contact from residents, the terminal hour had been brought back to 10pm. The issues were focussed on the morning opening. It was hoped that the premises would open soon and provide a good community service.

The manager added that he had been running the premises for over a year. The premises did not run irresponsible drink promotions. He was conscious of the area

in which the premises was situated. They monitored the alley on the CCTV. They had a good relationship with the Police.

In response to questions, the manager stated he would not sell to customers that were inebriated. It was confirmed that the hours for a nearby Waitrose were 8am to 11pm and for Tesco, 7am to 11pm. Groups did not congregate outside Sainsbury's for alcohol in the morning as only food and tobacco products were sold at this time. Customers could buy alcohol early in the morning ready for consumption later in the day. It was stated that the premises sold a standard range of alcohol. They did not sell miniatures, single cans or high strength alcohol. Staff were trained and had a refresher course every six months. The manager talked through the Think 25 policy. They also had voluntary test purchasers across their stores to ensure that staff applied the policy.

In summary, the objectors stated that the premises was in a cumulative impact zone and the premises licence was refused in 2013. Crowds would move further along St Johns Street. Waitrose and Tesco were further out. There was no community need for longer hours.

The applicant stated that the licence was refused in 2013 amid many concerns regarding deliveries and crowds and none of the fears had been realised. The licence was granted in 2015 and those concerns had still not arisen. There was no evidence that crowds would migrate from Smithfield and reasons for refusal would need to be evidence based, as set down in case law. The experts; the Police, Licensing Authority and Public Health had not objected. The premises fitted within the exceptions to the cumulative impact policy. The hours were not as long as a local Waitrose, Tesco or even a nearby Sainsbury's.

After the decision was read out the manager stated that he had viewed the Islington Council Women's Night Safety Charter and intended to promote the policy.

RESOLVED

That the application for a premises licence variation, in respect of Sainsbury's, 91-93 St John Street, EC1M 4NU, be granted to allow the supply of alcohol, for consumption off the premises from 8am until 10pm from Monday to Sunday.

That conditions detailed on pages 33 and 34 of the agenda shall be applied to the licence.

REASONS FOR DECISION

This meeting was held under regulations made under the Coronavirus Act 2020 and it was facilitated by Zoom.

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policies 2 & 3. The premises fall within the Clerkenwell cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operation schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Three local resident objections had been received. There had been no representations made by the responsible authorities.

The Sub-Committee noted that the hours sought, as amended by the applicant, were not within the hours specified in licensing policy 3, paragraph 24 (possible exceptions to the Clerkenwell cumulative impact policy) for Friday, Saturday and Sunday. Friday involved two hours later in the evening while Saturday had two hours at the beginning of the day and two hours more at the end of the day. Sunday had two hours at the beginning of the day but finished within framework hours.

The Sub-Committee heard evidence that there were existing problems of anti-social behaviour in Passing Alley and the local area, connected with two nightclubs further along. Residents were concerned that if the variation was granted, nightclub goers would migrate to Sainsbury's to pre-load or buy alcohol when drunk after the nightclub closed.

The Sub-Committee took into account licensing policy 2. This required them to consider the fact that the premises were located in an area of cumulative impact, the type of premises and their cumulative impact upon the area, the proximity to residential properties, the views of responsible authorities, past compliance history of current management, the type and numbers of customers likely to attend the premises and whether the applicant is able to demonstrate commitment to a high standard of management.

The Licensing Sub-Committee noted that the applicant had stated that Sainsbury's worked regularly with the Police, there had been no complaints of anti-social behaviour about their customers and they had put up CCTV, signage and lighting in Passing Alley. They also cleared litter. This was a voluntary effort on their part, they were not obliged to do so.

The manager gave strong evidence that he and his staff would not serve anyone with alcohol if they appeared to be drunk or smelt of alcohol. He had procedures for training staff before they were allowed to replenish or sell alcohol, this was regularly updated and tracking sale of alcohol electronically and staff were supervised by colleague observation on the till. There were already robust conditions preventing the sale of single cans and high strength beers or ciders and they were not changing the types of alcohol being sold.

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In addition, the Sub-Committee took into account the applicant's representations that it catered to students and office workers and regular local residents. It concluded that it was unlikely that nightclub patrons would migrate any further towards Sainsbury's than they had already. There were already other supermarkets selling alcohol at longer hours closer to the two nightclubs which were discussed.

The Sub-Committee concluded that the granting of the variation with the existing conditions would promote the licensing objectives and would not impact on the cumulative impact of any of the licensing objectives. The Sub-Committee was satisfied that the operating schedule demonstrated high standards of management and that the proposed use, meant that the premises would not add to the cumulative impact.

The Sub-Committee was satisfied that granting the variation was proportionate and appropriate to the promotion of the licensing objectives and in the public interest.

The meeting ended at 7.20 pm

CHAIR