

**Minutes of the Licensing Sub-Committee 4
Tuesday, 26th April, 2022 at 10.00 am
In the Council Chamber, Council House, Dudley**

Present:-

Councillor J Clinton (Chair)
Councillors J Cowell and E Taylor

Officers:-

N Slym – Assistant Team Manager (Directorate of Public Realm), R Clark – Solicitor and
M Johal – Senior Democratic Services Officer (Directorate of Finance and Legal).

11. **Apology for absence**

An apology for absence from the meeting was submitted on behalf of Councillor R Burston.

12. **Appointment of Substitute Member**

It was reported that Councillor E Taylor had been appointed as a Substitute Member for Councillor R Burston for this meeting of the Sub-Committee only.

13. **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

14. **Minutes**

Resolved

That the minutes of the meeting held on 11th January, 2022, be approved as a correct record and signed.

15. **Application to Vary a Premises Licence – Budgens, 58 High Street, Pensnett, Brierley Hill**

A report of the Interim Director of Public Realm was submitted on an application for variation of the premises licence in respect of the premises known as Budgens (formerly Sainsburys Supermarket), 58 High Street, Pensnett, Brierley Hill.

The following were in attendance at the meeting: -

Mr R Botkai – Solicitor
Mr M Palanisamy – Director
Mr A Kaliannan – Business Development Manager
Ms K Turley – West Midlands Police
Councillors S Greenaway and R Collins – Objectors

The Chair welcomed everyone present to the meeting and outlined the procedure that would be followed.

The Assistant Team Manager - Licensing and Waste Enforcement presented the report on behalf of the Council.

Ms K Turley, on behalf of West Midlands Police, made representations objecting to the variation of the premises licence under the Prevention of Crime and Disorder licensing objective. In doing so, it was stated that although the premises were located on a High Street, it was within a residential area, with a number of anti-social behavioural issues surrounding it. It was asserted that should the extension of hours for the sale of alcohol to 24 hours per day, 7 days a week, be granted, it would potentially cause an increase in anti-social behavioural issues. Reference was also made to correspondence between the applicant's solicitor and the Police including consideration of proposed conditions circulated the previous day. Specific reference was made to the proposed condition numbered 8 and Ms Turley stated that the Police were of the view that a night pay window together with there being no dedicated car park would cause additional noise nuisance issues and therefore could not support the application.

The objectors, Councillors S Greenaway and R Collins then made their representations in their capacity as Ward Councillors for Brockmoor and Pensnett. Councillor R Collins agreed with the comments made by the Police and provided further comments in this regard and highlighted that the selling of alcohol on a 24-hour basis would exacerbate anti-social behaviour issues in the area. Reference was also made to the potential risk of people travelling from neighbouring areas to use the shop during late hours causing an influx in traffic during unsocial hours. It was also stated that the premises hours had previously been reduced to 9pm due to anti-social behaviour and that registered door



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staff had been used by the previous owners, Sainsburys. Councillor S Greenaway highlighted the fact that she was not keen on small shops being open all night due to nuisance to local residents and highlighted concerns about staff and public safety. Reference was also made to a new housing development that was currently underway in close proximity to the shop and on the potential impact to those residents.

Mr R Botkai, Solicitor then presented the case on behalf of Samy Limited, the applicant, and in doing so, provided background information to the organisation in that they had acquired a number of stores from Sainsburys. The symbol group for the organisation was Budgens and the company now owned 25 stores, employed over 200 staff, had 16, 24-hour licences with no reviews. The organisation owned a store in Oldbury and operated on the same basis requested and no difficulties had been encountered. It was highlighted that the store in question currently operated on a 24-hour basis but had to cease selling alcohol and hot drinks at midnight until 6am. Mr Botkai referred to the proposed conditions circulated the previous day and highlighted the fact that they would consider any amendments, particularly to the night pay window. Further, to allay safety fears and to provide an assurance to the Police, the organisation made a proposition to ensure 2 staff were on duty during the night between the hours of 12 midnight and 6 am whilst doors were open and/or to have a night pay window. Conflicting information was provided by the Police in differing locations as some preferred a night pay window, however, the organisation would consider any suggestions moving forward.

With regard to training, Mr Botkai indicated that the company used a proper national training provider to fully train staff which was refreshed every 3 months. In responding to issues raised by the Police and objectors, Mr Botkai stated that the premises had a dedicated car park, litter was cleaned outside on a daily basis and a potential increase in traffic was unknown, however, it was pointed out that the store already operated on a 24-hour basis and therefore a significant increase in traffic was not expected. Clarification was also provided on the sale of hot food and it was stated that the intention of late night refreshment was to have a "Costa" to allow people to have hot drinks and the applicant was content for a condition to not serve hot food although it was highlighted that the shop did not cater for takeaway food such as kebabs.

Mr Botkai referred to national Licensing policies and the Council's local policy requiring there to be a very good reason not to grant permission and highlighted the fact that there was no evidence or data to verify anti-social behaviour issues arising from the premises. Representations and objections were based on opinions and hypothetical situations and it was pointed out there had been no representations from local residents.

Following questioning and responses provided by relevant parties, the Council's representative, the objectors and the applicant's representative summarised their cases.



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All parties then withdrew from the meeting to enable the Sub-Committee to determine the application.

Upon reconvening, the decision was communicated to all parties, as follows:-

Resolved

That, having considered all the information received in writing, and as presented at the meeting, the application for variation of the premises in respect of Budgens, 58 High Street, Brierley Hill, be granted with the following conditions:-

1. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive training in age restricted sales. Induction training must be completed and documented prior to the sale of alcohol by the staff member. Refresher/reinforcement training must be completed and documented at intervals of no more than 6 months. Training records will be available for inspection by a police officer or other authorised officer on request. Training records will be retained at the premises or at the offices of the licence holder for a minimum period of 12 months.
2. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/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.

This book/register shall be available for inspection by a police officer or other authorised officer on request. The book/register shall be retained at the premises or at the offices of the licence holder for a minimum period of 12 months.

3. An incident book/register shall be maintained to record:
 - all incidents of crime and disorder occurring at the premises
 - details of occasions when the police are called to the premises

This book/register shall be available for inspection by a police officer or other authorised officer on request. The book/register shall be retained at the premises or at the offices of the licence holder for a minimum period of 12 months.

4. All sales tills shall prompt the cashier making a sale of alcohol to verify that the customer is aged 18 or over.
5. There shall be no self-service of spirits except for spirit mixtures.



6. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
7. There shall be no sale of single cans of beer, lager or cider from the premises.
8. Between the hours of 0000 to 0600 there shall be a minimum of 2 members of staff on duty. In the alternative, and if there is only one member of staff on duty, the shop door must be closed to customers and any sales made through the night pay window.

The meeting ended at 11.15am

CHAIR