

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 23 April 2013

**PRESENT:** Councillors John Robson, Clive Skelton (Deputy Chair) and David Barker

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#### **1. APOLOGIES FOR ABSENCE**

1.1 No apologies for absence were received.

#### **2. EXCLUSION OF PUBLIC AND PRESS**

2.1 No items were identified where resolutions may be moved to exclude the public and press.

#### **3. DECLARATIONS OF INTEREST**

3.1 There were no declarations of interest.

#### **4. LICENSING ACT 2003 - SAINSBURY'S, 26-28 BARBER ROAD, SHEFFIELD, S10 1ED**

4.1 The Chief Licensing Officer submitted a report to consider an application for a Premises Licence, made under Section 17 of the Licensing Act 2003, in respect of the premises known as Sainsbury's, 26-28 Barber Road, Sheffield, S10 1ED.

4.2 Present at the meeting were Sabrina Cader (Solicitor for the Applicants), Phil Ronan (Area Manager, Sainsbury's), Bernard Little, Jan Symington, Jennifer Carpenter (on behalf of Lin Harrison), Zakar Malook and Bianca Huggins (Counsel representing Mr Malook) (Objectors), Matt Proctor (Senior Licensing Officer), Carolyn Forster (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

4.4 Matt Proctor presented the report to the Sub-Committee and it was noted that representations had been received from nine local residents or traders, and were attached at Appendices 'C1' to 'C9' to the report.

4.5 Bernard Little, on behalf of Crooksmoor Community Forum, stated that he was very concerned about the changing nature of the area over the last few years due to the rapid increase in the level of private rented accommodation in the area, resulting in a very transient

population. He stated that, as a result of this, there was no settled community and therefore, there was very little capacity to provide pastoral care for students and other people living in the area. He considered that extending the hours in terms of the sale of alcohol was not conducive to the prevention of crime and disorder or public nuisance, and could result in an increase in anti-social behaviour and noise nuisance in the area. He accepted that the proposal involved the conversion of the former Hadfield Hotel public house, but considered that the former public house provided a safe place for people to drink in a controlled environment, whereas people could purchase alcohol from Sainsbury's and drink on the streets. He also considered that supermarkets did not have the same level of rapport with the local community as local public houses. In terms of anti-social behaviour in the area, which he considered was predominantly fuelled by the consumption of alcohol, Mr Little stated that there had been incidences of threatening behaviour towards other people and damage to business and shop premises in the area.

4.6 Jan Symington, who owned a local business in the area, stated that she also objected to the long hours in terms of the sale of alcohol at the premises, indicating that there were already a number of other licenced premises in the area, where people could purchase alcohol. She made specific reference to the proposed hours in terms of the sale of alcohol exceeding those of the former public house on the site, and those of the Co-op Supermarket, which was situated nearby. She considered that having alcohol on sale for such long hours would not be conducive to the prevention of crime and disorder or public nuisance, and could fuel both. Ms Symington stated that herself and a number of other traders in the area often had to get up very early in the morning, and they had witnessed anti-social behaviour, some of a threatening and aggressive nature, against other people, and some against property, including several broken windows, with the majority of the incidences having been fuelled by the consumption of alcohol. She urged Members to reject the application or, at a minimum, reduce the licensable hours in line with other traders in the area.

4.7 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Bernard Little stated that whilst he had no evidence in terms of anti-social behaviour or crime and disorder, the Forum had received a number of calls from concerned residents in terms of noise nuisance and property being damaged in the area. There were particular problems, mainly with regard to noise nuisance, when the students arrived for the Autumn term, with several parties being held. Up to 95% of some streets in the area comprised privately rented accommodation, therefore there were no long-term local residents to voice their concerns. There were also two hostels accommodating vulnerable residents in the area, and having yet another licenced premises could add to the problems already being experienced. Whilst the Crookesmoor Community Forum was only in its infancy, and had no communications with the Universities or the Police, the

Harcourt Community Group had been in regular contact with the two Universities during the past 20 years. The Community Group had successfully campaigned to maintain a level of family housing in the area. Mr Little stated that local residents were regularly affected by noise nuisance into the early hours of the morning and the Forum had concerns in that, as a result of the changing culture in terms of young people's drinking habits, together with the changes of social structures in society, the problems of noise and anti-social behaviour would only get worse. He stressed that he was not suggesting that Sainsbury's was not a responsible company, but indicated that it was simply yet another outlet where people could purchase alcohol for the majority of the day, as well as there being no control as to where and how much of the alcohol was drunk. He confirmed that since September 2012, the Forum had not recorded any incidents of noise nuisance and that he was not aware of any contact between the Forum and any letting agencies or landlords in connection with the actions and/or behaviour of tenants in the area. He also stated that he was not aware of any official complaints regarding noise nuisance being made to the Council's Environmental Health Service. The Forum was currently an informal body, but discussion had been held with the former Central Community Assembly Manager in connection with taking steps to formally constitute it.

- 4.8 Jan Symington, whilst not being able to provide any evidence to show that Sainsbury's would result in an increase in noise nuisance and crime and disorder in the area, indicated that it was yet another outlet selling alcohol for long hours, which was highly likely to result in an increase in public disorder. She referred specifically to damage being caused to glass panels in her shop during the last few years. She confirmed that the comments made in her letter of representation, where reference was made to people wanting to purchase alcohol at 06:00 hours as 'having a problem' was a comment from one of her customers, and not from her and further, that such a comment was subjective. She accepted that the issue of competition, in terms of having yet another convenience store in the area, was not relevant in terms of the licensing objectives.
- 4.9 At this stage in the proceedings, Sabrina Cader stated that the applicants would like to amend the application, in order to limit the sale of alcohol from 07:00 hours to 23:00 hours.
- 4.10 The Chair adjourned the meeting for a period of approximately five minutes to give the objectors an opportunity to consider whether they wished to withdraw their objections in the light of this amendment.
- 4.11 Upon re-commencement of the hearing, the objectors indicated that they wished to continue with the hearing, based on their objections.
- 4.12 Bianca Huggins, representing Zakar Malook, Store Manager, Costcutter, stated that there would be a considerable number of

deliveries to the Sainsburys store, which would cause further traffic problems in what was already a congested area. Such traffic problems could have a potential effect on public safety. In particular, she referred to the narrow road and that a potential increase in deliveries may affect access for emergency services, and stated that Members should have regard to this pursuant to the Licensing Act published guidance. As well as the traffic problems, there were also already problems of noise nuisance and anti-social behaviour in the area, and a further application for a Premises Licence was likely to increase such problems. The long hours in terms of the sale of alcohol was likely to expose children to increased levels of anti-social behaviour, as well as increasing the likelihood of underage drinking in the area. Ms Huggins accepted that there was no evidence to show that any potential increase in noise nuisance and anti-social behaviour in the area would be caused as a result of the new store, but she stated that the existence of a further outlet selling alcohol was highly likely to result in an increase in problems in the area. Reference was made to a petition, containing 854 signatures, signed by local residents and customers of Costcutter, objecting to the proposed application by Sainsbury's for the reasons outlined above.

- 4.13 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Ms Huggins confirmed that she did not have any evidence to show that a further licenced premises in the area would result in an increase in noise nuisance and anti-social behaviour. With regard to the levels of underage drinking in the area, specifically relating to test purchases, she stated that she had been informed that there had been an increase in the number of test purchases in licenced premises, and that Mr Malook had noticed that such tests had been undertaken on a more frequent basis than previously. She stated that supermarkets generally sold alcohol cheaper than other licenced outlets, and that this could potentially lead to an increase in underage and excessive drinking. In terms of the petition, although it was accepted that there was a reference to the planning application in respect of the store, it had been made clear to everyone that by signing the petition, they were objecting to the application for a Premises Licence.
- 4.14 Sabrina Cader put forward the case on behalf of the applicants, referring to the reduction in hours now being requested regarding the sale of alcohol, from 06:00 hours to 24:00 hours to 07:00 hours to 23:00 hours. She stated that the shop would comprise a convenience store, selling a basic range of goods, and alcohol would only form a small part of the overall sales. It was planned that, subject to planning permission being obtained, the store would open in early 2014. Deliveries to the store would be made once a day, using a small lorry. This would include all goods at the shop being delivered at the same time, with no separate delivery for alcohol. Reference was made to the fact that there were a number of existing stores on Barber Road which received daily deliveries, so deliveries to the premises were not

likely to result in a major increase in traffic congestion. In terms of the concerns raised with regard to underage drinking in the area, Ms Cader stated that Sainsbury's prided itself on being a responsible operator, with all its staff being trained to operate the Challenge 25 scheme, and that all management and staff must receive a 100% pass mark in terms of their training before they could commence working in the store. All information held as part of Challenge 25 would be retained electronically, and would be accessible to the Police and other authorised authorities on request. The store would hold a Refusals Register, and staff would attend a daily meeting – known as the “daily huddle” – where, amongst other things, they would be reminded of their responsibilities with regard to underage sales. In addition, Sainsbury's arranged regular visits by a mystery shopper to its stores, who was either under 18 years old, or looked young, in order to undertake test purchase operations. Between 20 and 25 staff would be employed at the store, and would all be recruited from the local area. Sainsbury's operated a number of community-led initiatives, including the Community Grant. In addition, store managers were also encouraged to attend meetings of local community groups, and Phil Ronan indicated that he would like to attend a future meeting of the Crookesmoor Community Forum in order to respond to any concerns from local residents. Ms Cader made specific reference to the fact that there had been no evidence to suggest that problems of noise nuisance and anti-social behaviour in the area would increase as a result of the new store, and that there had been no objections from the Police or any other statutory agencies.

- 4.15 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Ms Cader stated that delivery times to the store would normally be between 07:00 hours and 10:00 hours, with the actual time to be arranged in order that the minimum amount of disruption is caused. She confirmed that there would be till prompts on all tills in the store and that as part of the Company's national training programme, all members of staff would be required to sign to indicate they had undertaken such training at least every six months. There would not be as large a range of alcohol for sale as in the supermarkets, and any drinks promotions would be on a much smaller scale to those offered in the supermarkets. In terms of evidence to show where the Company's policies and training had been successful in helping to reduce any problems of underage drinking and anti-social behaviour linked to their stores, Ms Cader stated that the Company had a very good record in terms of the operation of the Challenge 25 scheme and that the fact that the Company had no problems in terms of test purchases carried out at its stores must mean that the scheme was being operated correctly. Dealing with proxy sales was always difficult, particularly if there was no indication or evidence to show that a customer was going to pass on the alcohol to a person under 18 years of age. Staff were, however, trained to look out for evidence and would take action where necessary. The Brand Match promotion

was not operated in any of Sainsbury's convenience stores. If any of the sales staff had any doubts in terms of the age of a customer, they would refuse the sale. The store's external CCTV would cover the area immediately outside the store and if any young people were found to be hanging around, either causing trouble or asking people to buy them drink, they would be asked to move away. Ms Cader was not in a position to confirm whether or not Sainsbury's would open a store at the site if they did not get a Premises Licence. The decision on the application for planning permission was pending.

4.16 In response to questions from the objectors, Ms Cader stated that she acknowledged that the deliveries to another outlet in the area would add to the traffic congestion. She believed that the Challenge 25 scheme was sustainable over the long-term and stated that Sainsbury's had operated an age-verification policy for the last eight years, with all store managers being required to adopt such a policy. If there were any problems in terms of the operation of the premises, the Community Forum or any local residents would be able to contact the Designated Premises Supervisor (DPS). The Area Manager visited stores in the area on a regular basis in order to check all the procedures were being adhered to and that all the correct signage was being displayed. He would also be available to respond to any queries or concerns raised by the local community. Ms Cader stated that she was not aware of any major change in terms of alcohol sales following the introduction of Challenge 25, and with regard to the Company moving into what the objectors termed a 'vulnerable community', she stated that Sainsbury's would review each area prior to submitting the relevant applications, and would therefore be aware of any issues relating to that area. She added that all staff employed at the store would be recruited from the local area, so they would also be aware of any issues in the community. In terms of the number of Sainsbury's convenience stores in the City, it was not considered that the existence of such stores had contributed to any increases in anti-social behaviour or underage drinking, and this was backed up by the fact that no objections or concerns had been raised by either the Police or Environmental Health in connection with any of the stores. Phil Ronan stated that he had visited the site and indicated that the level of traffic congestion depended largely on the time of day, which was common with most other district shopping centres. In terms of deliveries, Sainsbury's would use small delivery lorries to deliver to its convenience stores and that a risk assessment would be undertaken in terms of the lorry's route to the store and where it would park at the store, in connection with access for emergency services. Even if there were large queues at the store, which was not likely, the sales staff would still adopt the Challenge 25 policy. In terms of test purchase operations, the DPS would not always be informed if the store had passed an operation, but would be informed if it had failed one.

4.17 RESOLVED: That the public and press and attendees involved in the

application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.

- 4.18 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 4.19 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.20 RESOLVED: That the Sub-Committee agrees to grant the Premises Licence in respect of Sainsbury's, 26-28 Barber Road, Sheffield, S10 1ED, in the terms now requested, and subject to the operating schedule, agreed conditions and to the two modified conditions as follows:-
- (a) Supply of alcohol from 07:00 hours to 23:00 hours; and
  - (b) The licence holder will ensure that the premises benefit from a CCTV system, to the reasonable satisfaction of the Police, that operates at all times when licensable activities are taking place.

(The full reasons for the Sub-Committee's decision and the operating conditions will be included in the written Notice of Determination.)