

Committee: Licensing Sub Committee	Date	Classification Unrestricted	Report No.	Agenda Item No.
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Report of: David Tolley Head of Environmental Health & Trading Standards Originating Officer: Corinne Holland Licensing Officer	Title: Licensing Act 2003 Application for a new Premise Licence for Sainsbury's, 70 Wapping Lane, London, E1W 2RD Ward affected: St. Katharine's and Wapping
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1.0 Summary

Applicant: **Sainsbury's Supermarkets Ltd**

Name and Address of Premises: **Sainsbury's
70 Wapping Lane
London
E1W 2RD**

Licence sought: **Licensing Act 2003
Sale by retail of Alcohol (off sales)**

Objectors: **Residents**

2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File
Section 182 Guidance
LBTH Licensing Policy

Corinne Holland
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3.0 **Background**

3.1 This is an application for a new Premise Licence for Sainsbury's, 70 Wapping Lane, London, E1W 2RD.

3.2 The applicant has described the premises as: A convenience store.

3.3 A copy of the application is shown in **Appendix 1**.

3.4 The hours applied for are as follows:

Sale of Alcohol (off sales only)

Monday – Sunday 07:00 hours – 23:00 hours

Opening times

Monday – Sunday - 24 hours/unrestricted

4.0 **Location and Nature of the premises**

4.1 The site plan of the venue is included as **Appendix 2**.

4.2 Maps showing the vicinity are included as **Appendix 3**.

4.3 Photographs of the premises are included in **Appendix 4**.

4.4 Details of other licensed venues in the immediate vicinity are included as **Appendix 5**.

5.0 **Licensing Policy and Government Advice**

5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1st November 2018.

5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.homeoffice.gov.uk. It was last revised in April 2018.

5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

6.0 Representations

- 6.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing.
- 6.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 6.3 All representations must be “about the likely effect of the grant of the premises licence on the promotion of the licensing objectives.” Likely means something that will probably happen, i.e. on balance more likely than not.
- 6.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 6.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 22**.
- 6.7 All the representations in this report have been considered by the relevant officer (Team Leader Licensing & Safety) and determined to have met the requirements of the Licensing Act 2003.
- 6.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following.

Amanda Day	Appendix 6
Raju Foyez	Appendix 7
Abdul Hussain	Appendix 8
Ann Jackson	Appendix 9
Anny West	Appendix 10
Charlotte Tymms	Appendix 11
Charlotte Webster	Appendix 12
Giles Sparrow / Katja Seibold	Appendix 13
Ikraam Miah	Appendix 14
Ilaria Rosa	Appendix 15
Marie Cahill	Appendix 16
Natasha Stone	Appendix 17
Purnesh Patel	Appendix 18
Terab Ali	Appendix 19
Supporting Representation	
Eleri Thomas	Appendix 20

6.9 A number of representations and a petition were received during the time when the Licensing Authority was closed over the Christmas period. In the new year the Licensing Authority had to reject these as invalid, as they did not show how the granting of the licence would undermine the licensing objectives. The consultation period expired on the 29th December 2022 so they could not be subsequently re-submitted addressing the licensing objectives.

6.10 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Public Health
- Home office (Immigration Enforcement)

6.11 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

6.12 The objections relate to:

- Public nuisance
- Crime and Disorder
- ASB
- Public Safety

6.13 Essentially, the relevant parties oppose the application because the applicant has not explained how within the context of the application they will meet licensing objective of the prevention of public nuisance and the prevention of crime and disorder.

6.14 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.15 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the

schedule and incorporate any conditions as necessary to address the licensing objectives.

7.0 Conditions consistent with Operating Schedule

1. The licence holder will ensure that the premises benefit from a CCTV system that operates at all times when licensable activities are taking place.
2. The system will incorporate a camera covering each of the entrance doors and the main alcohol display area and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
3. The system will incorporate a recording facility and any recording will be retained and stored in a suitable and secure manner for a minimum of 30 days and will be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.
4. The system must be able to export recorded images to a removable means e.g. CD/DVD and have its own software enabled to allow playback/review.
5. A member of staff trained in the use of the CCTV system must be available at the premises at all times that the premises are open to the public.
6. The system will display, on any recording, the correct time and date of the recording.
7. The applicant 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.
8. 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.
9. The premises licence holder will 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 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form or method of identification that complies with any mandatory condition that may apply to this licence.

8.0 Conditions Agreed/Requested by Responsible Authority

Environmental Health – See **Appendix 21**

1. No collections of waste or recycling materials (including bottles) from the premises shall take place between 22:00 hours and 07:00 hours on the following day.
2. No deliveries to the premises shall take place between 22:00 hours and 07:00 hours the following day.

Licensing Officer Comments

8.1 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

8.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also “as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.” Therefore licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Also, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.” Therefore, conditions may not be imposed for the

- ❖ purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)
 - ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.4).
 - ❖ The Guidance states: “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.14)
 - ❖ Mandatory conditions must be imposed (10.25) and censorship avoided (10.17).
 - ❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.58)
 - ❖ Also, “Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area.” (10.21)
- 8.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 8.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 8.6 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)
- 8.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant

responsible authorities.

8.8 In **Appendices 22-31** Members are given general advice, and also have explanations of the Council's Licensing Policy, Government advice and other legislation relating to the matters previously identified.

9.0 **Legal Comments**

9.1 The Council's legal officer will give advice at the hearing.

10.0 **Finance Comments**

10.1 There are no financial implications in this report.

11.0 **Appendices**

Appendix 1	A copy of the application
Appendix 2	Site Plan
Appendix 3	Maps of the surrounding area
Appendix 4	Photographs of the premises
Appendix 5	Other licensed venues in the area
Appendix 6-19	Representations from residents
Appendix 20	Supporting resident representation
Appendix 21	Conditions agreed with EH
Appendix 22	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
Appendix 23	Licensing Officer comments on public nuisance
Appendix 24	S182 advice on public nuisance
Appendix 25	Licensing Officer comments on crime & disorder
Appendix 26	S182 advice on crime & disorder
Appendix 27	ASB leaving the premises
Appendix 28	Licensing Officer Comments on Public Safety

Appendix 29	S182 advice on public safety
Appendix 30	Licensing Policy relating to hours of trading
Appendix 31	Planning