

Licensing Sub-Committee

22nd September 2014

MINUTES

Sub-Committee Members Present:

Councillor Pattie Hill (Chair), Councillors Gay Hopkins and Pat Witherspoon

Officers:

K Barnett (Litigation Lawyer, Legal Services)
S Alom (Technical Officer, Licensing, Worcestershire Regulatory Services)
P Ross (Democratic Services Officer)

Applicant's Side:

Mr R Taylor, Gosschalks Solicitors
Mr A Davies, Store Manager, ASDA, Shirley, Birmingham

Also in attendance:

Ms P D Harvey, OBO Smallwood South Residents

1. CHAIR'S WELCOME

The Chair opened the hearing and introduced Members of the Sub-Committee and Officers present.

The Chair invited all those parties present to identify themselves.

2. APOLOGIES

No apologies for absence were received.

3. DECLARATIONS OF INTEREST

No declarations of interest were received.

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Chair

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4. APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 - ASDA, JINNAH ROAD, SMALLWOOD, REDDITCH, B98 7ER

The Sub-Committee was asked to consider an application for a new premises licence made by ASDA Stores Limited for ASDA, Jinnah Road, Smallwood, Redditch, B98 7ER for the hours as stated on the operating schedule as detailed at Appendix 1 to the report.

The application was subject to a hearing in light of four representations being received from local residents. The representations related primarily to:-

- Public safety of the residents of the surrounding areas
- Public nuisance from drinkers leaving the town centre to obtain more drink from Asda
- An increase in anti-social behaviour in the area
- An increase in noise pollution in the area
- An increase in crime and disorder in the area
- Anti-social binge drinking
- The protection of children from harm
- Potential for an increase in litter in the area
- The proliferation of drugs in the area

The Technical Officer (Licensing), Worcestershire Regulatory Services (WRS) introduced the report and in doing so informed the Sub-Committee that four representations had been received. The Technical Officer (Licensing), WRS further informed the Sub-Committee that no representations had been received from any of the Responsible Authorities.

Mr R. Taylor, Gosschalks Solicitors, the applicant's representative, spoke in support of the application. He informed the Sub-Committee that Asda Stores Limited currently had 580 stores across England, Wales and Scotland; of which 250 were 24hr. stores. To his knowledge none of these stores had been subject to any application for review of their licences.

Mr Taylor highlighted that the recent planning permission granted by Redditch Borough Council to Asda, Jinnah Road, Smallwood, Redditch, B98 7ER had recommended that Redditch Borough Council Officers negotiated and agreed a satisfactory alternative proposal to the proposed 24hr. opening times. Therefore the store would be bound by the opening hours agreed on the planning conditions.

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In response to the concerns raised by residents, Mr Taylor explained that the late night refreshment offered would not be from a burger van or café. The application had requested late night refreshment; this was required as the store would have an in house bakery and cooked items such as rotisserie chicken for immediate sale. Therefore a licence for late night refreshment was a requirement of their application as food could still be hot when purchased by customers early morning or late evening.

With regard to CCTV, Mr Taylor informed Members that, as detailed in Section M of the operating schedule, the premises would have internal and external CCTV cameras. CCTV recordings would be kept for 31 days and handed to the police or authorised person upon request. The store would operate a Challenge 25 policy backed up by the till system. Check out operators had to be over 18 years of age; all check out staff were fully trained on Asda policies and procedures and provided with refresher training. In all major stores there was a community colleague who liaised with the community.

Mr Taylor further reiterated, as stated by the Technical Officer (Licensing), WRS, that no representations had been received from any of the Responsible Authorities. ASDA wanted stores that were nice environments to shop in with security staff in place and tidy from litter.

Mr Taylor introduced Mr A. Davies, ASDA Store Manager, Asda Superstore, Shirley, Solihull, Birmingham. As the store manager for an ASDA 24 hr. store, Mr Davies would be able to answer any relevant questions from Members of the Sub-Committee.

At the invitation of the Chair, Ms P. D. Harvey, resident of Millsbro Road and OBO Smallwood South Residents, addressed the Sub-Committee. Ms Harvey informed the Sub-Committee that she had attended this evening to voice the concerns of local residents. Smallwood is a highly populated area and the ASDA store would be in close proximity to residential properties. Statistics showed that communities next door to 24 hr. stores or late night opening venues were subject to increased crime and disorder.

The opening of a 24 hr. store would attract more people into the area, with people who had been drinking in the town visiting the store to purchase low cost alcohol. Criminal damage had already been experienced by some local residents, with plant pots being smashed, property and cars damaged. The site would be unsecure and unmonitored. Residents wanted to protect their children from harm. She did not feel that ASDA would be a 'good' neighbour if

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they pushed for a 24 hr. licence. ASDA stating that a 24 hr. store would/may benefit the community was ludicrous.

If there was any trouble at the premises who would deal with it? At the Council's Planning Committee meeting on 19th September 2014 the Planning Committee had asked ASDA to work with residents with regard to their concerns with the opening of a 24 hr. store. This had not happened.

Councillor P. Witherspoon asked Ms Harvey if residents had reported the instances of anti-social behaviour to the police, as no representations had been raised by any of the Responsible Authorities to support the concerns raised by her on behalf of residents. In response to Councillor P. Witherspoon, Ms Harvey informed the Sub-Committee that criminal damage had been experienced by residents quite recently. As a community they were aware that criminal damage happened but residents did not always report it. She had advised residents to report any incidents to the police.

Councillor G. Hopkins raised the question, that having listened to the concerns raised by Ms Harvey, with youths purchasing alcohol and making a nuisance, who would deal with this at the store?

Mr Davies responded that the check-out prompt, staff training and the Challenge 25 policy would prevent any underage sales. ASDA would have a responsibility to contact the police to ensure that any incidents were dealt with and recorded.

All parties then had the opportunity to sum up their cases. The Technical Officer (Licensing), WRS, referred to the four licensing objectives, the guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

In summing up Ms Harvey stated that as a community they strongly urged the 24 hr. licensing application to be refused, there were no other 24 hr. licensed stores in the area/vicinity. She asked the Sub-Committee to be mindful of any decision made and that residents be consulted on any conditions applied.

In summing up Mr Taylor asked the Sub-Committee to consider the application on the real evidence provided and not on the likelihood of what may happen. He requested that the four licensing objectives and the Council's own policy be considered when the Sub-Committee made their decision. No representations had been received from any of the Responsible Authorities. If the application was granted ASDA Stores would still be bound by the agreed

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planning condition hours. Residents could call the licence in for review if they experienced any issues or had any concerns with the premises. He was confident that they could manage the store without residents being concerned.

Final submissions having been made the Chairman informed all those present that the time taken to make a decision would be variable. Should anyone choose to leave before the meeting reconvened, the Technical Officer (Licensing), WRS; would send the decision letter, outlining the decision of the Sub-Committee; to all those who had made relevant written representations in connection with the application.

Accordingly the meeting stood adjourned from 7:42pm to 20:05pm.

Having reconvened, the Chairman requested that the Council's Legal Advisor read out the decision of the Sub-Committee.

the Sub-Committee RESOLVED that

the application for a premises licence for ASDA Stores Limited for ASDA, Jinnah Road, Smallwood, Redditch, B98 7ER be GRANTED, in the terms as set out in the Operating Schedule, subject to the condition that the hours for which the premises are licensed was to be co-terminus with the opening hours to be agreed as part of the Planning Permission.

Whilst the Sub-Committee fully appreciates the concerns regarding potential problems that may arise from the granting of a licence, they must take into account that this does not amount to evidence in terms of the decision they have had to make. In particular the Sub-Committee noted that no representations had been made by any of the Responsible Authorities.

Whilst the Sub-Committee were sympathetic to the position of local residents in respect of the problems they currently faced with anti-social behaviour it was clear that this cannot be attributed to a premises which does not currently exist and any representations regarding the potential impact of this application were therefore nothing more than conjecture.

The Sub-Committee considered that the stated methods by which the applicant controls the sale of alcohol, together with their other standard operating policies and procedures as relayed by Mr Taylor and Mr Davis, were such that they had every confidence that the applicant was a responsible organisation and would make every effort to promote the four licensing objectives.

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Should problems occur, however, the Sub-Committee would remind both the applicant and those in attendance that an application may be made to Review the licence.

The following legal advice was given:

- that the Licensing Objectives must be the paramount consideration;
- that the Sub-Committee may only have regard to representations which promote the four licensing objectives; and
- that the Sub-Committee must consider only those matters relevant to the premises.

In reaching its decision the Sub-Committee has had regard to the representations made; the provisions of the Licensing Act 2003, the Statutory Guidance issued under Section 182 of the Act and Redditch Borough Council Statement of Licensing Policy.

An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which written confirmation of the decision was received by the Applicant.

The Meeting commenced at 7.00 pm
and closed at 8.08 pm