

<u>Contents</u>	<u>Page</u>
1. THE APPLICATION	4
1.1. Current Hours of Operation	4
1.2. Application Requested	4
1.3. Applicants Operating Schedule	4
2. BACKGROUND	4
3. CONSULTATION	5
3.1 Relevant Representations	5
4. OTHER INFORMATION	5
4.1 Enforcement History	5
4.2 Temporary Event Notices (“TENS”)	5
5. POLICY CONSIDERATIONS	5-12
6. DETERMINATION	12
 <u>APPENDICES</u>	
Copy of current licence and plan	13-21
Copy of application form	22-33
Map showing location of premises and neighbouring premises	34
Copy of objection from Councillor Daly	35
Copy of objections from local residents	36-95

1. THE APPLICATION

On 20th September 2024, the Licensing Authority received a valid application for a variation to the premises licence in respect of the premises known as Sainsbury's, 48 - 50 Shepherd's Bush Road, London, W6 7PH submitted by Winckworth Sherwood LLP on behalf of Sainsbury's Supermarkets Ltd ('the applicant').

1.1 Current Hours of Operation

The premises currently benefit from a premises licence which permits the following:

Sale of Alcohol - Off the Premises

Monday to Sunday 11:00 - 23:00

Opening Hours of the Premises

No restrictions

A copy of the current premises licence and plan can be seen on pages **13-21** this report.

1.2 Application Requested

The applicant has applied to vary the hours for the sale of alcohol off the premises as follows:

Sale of Alcohol - Off the Premises

Monday to Sunday 07:00 - 23:00

A copy of the application form can be seen on pages **22-33** of this report.

1.3 Applicants Operating Schedule

The applicant has not proposed any additional steps to promote the four licensing objectives if the application is granted. A copy of the current conditions can be seen on pages **14-17** of this report.

2. BACKGROUND

The main access to the premises is located on Shepherd's Bush Road at its junction with Poplar Grove. There are mainly residential premises within the area. A map showing the location of the premises and neighbouring licensed premises can be seen on pages **34** of this report.

There are several options for transport away from the area including buses and taxis which run from in and around the Shepherd's Bush Road area. Goldhawk Road underground station is a 7-minute walk away, Shepherds Bush tube station is a 9-minute walk away and Shepherd's Bush Market tube stations is a 10-minute walk away.

3. CONSULTATION

A public notice was displayed at the premises for 28 days. The application was advertised in a local circular and all statutory consultees were notified as required by the Regulations. The Council has served written notice of hearing upon the applicant and all those parties that have made representations in respect of the application.

3.1. Relevant Representations

The licensing section received one representation from Councillor Jacolyn Daly objecting to the licence application. A copy of this representation can be seen on page **35** of this report.

The licensing section received thirty-four representations objecting to the licence application from local residents. A copy of these representations can be seen on pages **36-95** of this report.

4. OTHER INFORMATION

4.1 Enforcement History

On 2nd March 2022 an inspection sheet was left at the premises as a warning letter as the summary licence was not displayed and condition 16 was breached. Condition 16 requires the premises to have signage requesting customers to leave quietly to be displayed at the premises.

4.2 Temporary Event Notices “TENs”

No TENs have been submitted in respect of this premises in the past twelve months.

5. POLICY CONSIDERATIONS

5.1 Section 2 pages 7-8 of the Statement of Licensing Policy (“SLP”) states the Licensing Authority is keen to support the licensed sector and leisure offer within the borough, with a particular focus on business resilience and growing a robust and thriving cultural and leisure sector.

To achieve this the Licensing Authority has identified three key themes of the Licensing Policy and the Licensing Authority’s approach to implementing it. These are:

- A sustainable, well-run licensed sector;
- Hammersmith & Fulham as a good place to live, work and enjoy leisure; and,
- A safe licensing environment and night-time economy.

5.2 Section 5 pages 12 and 13 of the SLP states that to ensure the promotion of the four Licensing Objectives the Licensing Authority will require applicants to detail in their operating schedule:

- the steps proposed to promote the licensing objective of the prevention of crime and disorder on, and in the vicinity of, the premises, having regard to their location, character, condition, the nature and extent of the proposed use and the persons likely to use the premises;

- the steps proposed to ensure the physical safety of people using the relevant premises or place;
how they intend to prevent nuisance arising, prevent disturbance and protect amenity so far as is appropriate to ensure that the Licensing Objectives are met. Where there is a relevant representation regarding extended hours, the Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met;
- the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff.

5.3 Section 7 page 15 of the SLP states that for sales of alcohol for consumption off the premises – applicants in respect of off licences and other premises selling alcohol for consumption off the premises may need to consider whether:

- there are shutters to prevent alcohol from being selected in non-licensed periods.
- there are appropriate numbers of staff on duty to deal with possible ‘intimidation’ to sell alcohol.
- there are restrictions required on the sale of low price, high strength alcohol and drink promotions.
- an incident log book is available to record incidents.
- there are measures in place necessary to prevent underage sales.
- there are measures in place necessary to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
- there are procedures in place to prevent sales of alcohol to intoxicated persons (with particular attention to street drinkers) or individuals leaving premises in the vicinity such as a late night bar; where there is evidence to suggest this is a problem the Licensing Authority may require a temporary cessation of alcohol sales during high risk times.

5.4 Policy 1 page 18 confirms that The Secretary of State’s Guidance states that applicants are expected to obtain sufficient information to enable them to demonstrate, the steps they propose to take to promote the licensing objectives; and that they understand the layout of the local area and physical environment including:

- a) crime and disorder hotspots;
- b) proximity to residential premises;
- c) proximity to areas where children may congregate;
- d) any risk posed to the local area by the applicants’ proposed licensable activities; and
- e) participation in any local initiatives (for example, local crime reduction initiatives or voluntary schemes, such as ‘Ask for Angela’, local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

Applicants are expected to include positive proposals in their application on how they will manage any potential risks.

The Guidance goes on to state that ‘Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which

their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.'

The Licensing Authority notes the contents of these paragraphs from the Secretary of State's Guidance and, in particular, the use of the word 'expected'. Licence applications that do not in any way address the contents of these paragraphs in their operating schedules may be returned to the applicant as 'incomplete'.

5.5 Policy 3 pages 21 and 22 of the SLP states that the Licensing Authority may consider specific restrictions on hours of sale and operation in certain circumstances. Where there is a relevant representation, the Licensing Authority will consider each particular case on its merits having regard in particular to the following matters:

- a) Whether the licensed activities are likely to have an adverse impact especially on local residents and, if there is potential to have an adverse impact, what, if any, appropriate measures will be put in place to prevent it;
- b) Whether there will be a substantial increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area;
- c) Whether there is a suitable level of public transport accessibility to and from the premises at the appropriate times;
- d) Whether the activity will be likely to lead to a harmful and unmanageable increase in car parking demand in surrounding residential streets suffering high levels of parking stress or on roads forming part of the Strategic London Road Network or the London Bus Priority Network leading to a negative impact on the Licensing Objectives relating to the prevention of crime, disorder, anti-social behaviour (ASB), nuisance and vehicle emissions;
- e) Whether there have been any representations made by Responsible Authorities, or other relevant agency or representative.

It will be the normal policy of the Licensing Authority to allow shops, stores and supermarkets to provide sales of alcohol for consumption off the premises at any times (in line with permitted planning hours) when the retail outlet is open for shopping unless there are good reasons based on the Licensing Objectives for restricting those hours. Should there be evidence regarding street drinking issues, child protection issues, cumulative impact, anti-social behaviour (ASB), issues in relation to public nuisance and disorder in the vicinity of this type of premises, the Licensing Authority may restrict the hours of the sale of alcohol or decide to review the licence. To act as a guide for new or existing operators we have set out the suggested closing times for licensed premises below:

Type of premises	Town centres	Mixed use areas	Residential areas
Off-licences and alcohol sales in supermarkets	23:00 daily	23:00 daily	22:00 daily

5.6 Policy 4 pages 22 and 23 of the SLP states that the Licensing Authority will have regard to cumulative impact generally during the duration of this policy. In determining an application where there has been a relevant representation the Licensing Authority will, where appropriate, take into account the cumulative effect of the number, type and density of licensed premises already existing in the area. Consideration will be given to the proximity to any drug and alcohol treatment site, A&E department or homeless hostel in a local area type remit ie applicants need to make the case for how they would not increase further problems for residents/clients nearby.

In coming to any decision regarding cumulative impact the Licensing Authority will consider other mechanisms outside of the licensing regime which may also be available to address this issue, these include but are not limited to:

- Planning controls (where development or change of use is involved, or where trading hours are limited by planning conditions)
- Police and other enforcement of the normal law concerning disorder and anti-social behaviour.
- Prosecution or other enforcement of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- Prosecution or other enforcement of any personal licence holder or member of staff at such premises who is selling to underage persons or selling illegal alcohol or tobacco
- Police powers to close down instantly any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises, for up to 24 hours.
- The power of the police, other responsible authorities, a local resident, business or Councillor to seek a review of the licence or certificate in question.
- Police and Local Authority power to issue a Closure Notice for up to 48 hours where serious antisocial behaviour is taking place at licensed premises under the Anti-social Behaviour, Crime and Policing Act 2014.
- To ensure that residents are protected from the negative impact of late-night local licensing activities the Licensing Authority may decide to adopt an Area Specific Cumulative Impact Policy in relation to a specific area; where the number, type and density of premises providing licensable activities is having a serious negative impact on the local community and local amenities.

5.7 Policy 11 page 30 of the SLP states that that the Licensing Authority expects that any licence applicant will give due consideration to the needs of Hammersmith & Fulham residents and any negative impacts from licensable activities and business operations. with reference to taking place in their premises and how these may impact in the direct locality and further afield.

Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour caused by people once they are away from the licensed premises and, therefore, beyond the direct control of the licensee. However, licensing is a key aspect of such control and licensing law is part of a holistic approach to the management of the night-time economy.

As a matter of policy, the council expects every holder of a licence, certificate or permission, to accept and be responsible for minimising the impact of their activities

and anti-social behaviour by their patrons within the vicinity of their premises by taking appropriate measures and action consistent with that responsibility.

Licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking area, to the extent that these matters are within their control.

Population densities in this borough are high, with many residential premises located above or in close proximity to licensed premises. This means that the public nuisance and crime and disorder objectives will be of paramount concern when evaluating Operating Schedules. Licensing Committees will place high regard on the control measures put in place by the applicant to ensure that our residents are protected from the potential detrimental effects of any licensed premises.

5.8 Annex 1 pages 35 and 36 of the SLP in relation to the prevention of crime and disorder states that in order to ensure the promotion of the four Licensing Objectives the Licensing Authority will require applicants to detail in their operating schedule the steps proposed to promote the licensing objective of the prevention of crime and disorder on, and in the vicinity of, the premises, having regard to their location, character, condition, the nature and extent of the proposed use and the persons likely to use the premises; Licence applicants will be expected to demonstrate the following in their operating schedules:

- a) Measures to control excessive consumption and intoxication.
- b) Consideration of any additional measures or restrictions that may be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'.
- c) Operators of off-licences in areas problems relating to street drinking and underage drinking are prevalent, measures should be outlined to strictly monitor the way alcohol is sold, specifically where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.
- d) It is important to ensure that staff working at off licences are suitably trained and receive appropriate refresher training in their responsibilities under the Act and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary. The Licensing Authority will particularly consider the following matters where they are material to the individual application:
 - I. The likelihood of any violence, public order or policing problem if the licence is granted;
 - II. The measures taken to control admission to the premises, and to take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside the premises, where and to the extent that these matters are within their control.
 - III. Past conduct and prior history of complaints against the premises;
 - IV. Whether a dispersal policy has been prepared to minimise the potential for disorder as customers leave the premises; and
 - V. Any relevant representations.

g) Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.

h) **Crime and disorder in the vicinity of the premises:** this may include the crime and disorder risks arising from persons queuing to enter the premises; persons exiting the premises and customers smoking eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.

j) **CCTV** - using CCTV inside and/or outside the premises together with appropriate procedures and having staff properly trained to use CCTV equipment.

l) **dealing with and reporting crime and disorder** - training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.

o) excessive drinking - training for staff to recognise when customers are becoming drunk and adopting appropriate 'cut off' procedures for drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.

5.9 Annex 1 pages 37 to 38 of the SLP in relation to public safety states that the Licensing Authority will require the applicant to demonstrate the steps proposed to ensure the physical safety of people using the relevant premises or place. This does not cover the separate need for applicants to provide relevant public safety requirements dealt with by Environmental Health.

The following provides a non-exhaustive list of risks associated with the public safety objective that applicants may want to consider when preparing their Operating Schedule:

e) **incident and occurrence book** – keeping an incident book on the premises so staff can record any instances of crime, disorder, refused sales, ejections and intimidating behaviour.

5.10 Annex 1 pages 38 to 40 of the SLP in relation to the prevention of public nuisance states that the Licensing Authority will require the applicant to demonstrate within the operating plan how they intend to prevent nuisance arising, prevent disturbance and protect amenity so far as is appropriate to ensure that the Licensing Objectives are met. Where there is a relevant representation regarding extended hours, the Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met. This is expected to include:

a) In considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for public nuisance and anti-social behaviour and any Public Spaces Protection Orders (PSPOs) in place.

b) The Licensing Authority will particularly consider the following matters where they are material to the individual application:

ii. The proximity of residential accommodation;

iii. The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;

v. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises.

ix. The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;

- xv. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);
- xvii. The history of the applicant in controlling anti-social behaviour and preventing nuisance;
- xix. Any other relevant activity likely to give rise to nuisance;

The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

- r) **Waste** – consider how and where waste will be stored/disposed of at the end of trading hours, particularly if trading until late at night. This is important because the disposal of glass and/or cans to outside bin areas can be very noisy and give rise to complaints, so it may be necessary to store such items and other non-degradable refuse inside the premises until the next trading day. Consideration should also be given to the time of deliveries to minimize disruption to local residents.
- s) **Litter** – for example, litter patrols for late night take-away premises

5.11 Annex 1 pages 40 to 41 of the SLP in relation to the protection of children from harm states that the Licensing Authority will require operating plans to specify the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff. This is expected to include:

b) The Licensing Authority will particularly consider whether:

vi. There are licensable activities that are likely to appeal to minors/children under 16 taking place during times when children under 16 may be expected to be attending compulsory full-time education;

c) The sale of alcohol to a minor is a criminal offence and Trading Standards officers will conduct appropriate covert test purchasing exercises and will take account of any complaints and intelligence. The Act permits the use of children under the age of 18 to undertake test purchases when they have been directed to do so by a duly authorised officer.

d) Where a sale of alcohol has been made on the same premises to a minor on two or more different occasions within a period of three months the premises licence could be suspended for a defined period.

g) The Licensing Authority will expect operating plans to specify the measures and management controls in place to prevent alcohol being served to children, other than in those limited circumstances permitted by the Act. The Council's Trading Standards officers have a role to play in the protection of children from harm, and proof of age schemes, and are able to provide advice in relation to measures that can be taken to help prevent the sale of alcohol to underage children. Potential licence holders should also be aware of the Proof of Age London (PAL) Scheme hosted by Southwark Council.

The 'Responsible Authority' in relation to the protection of children from harm is the council's Local Safeguarding Children Board. The Trading Standards service will also have certain responsibilities particularly in relation to the underage sales of age restricted products and providing advice about measures that can be taken to reduce the risk of alcohol sales to under eighteens. The following provides a non-exhaustive

list of risks associated with the protection of children from harm objective that applicants may want to consider when preparing their Operating Schedule:

i) Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks. The Council will expect premises only to accept current passports, driving licences or documents bearing the national PASS logo, such as Citizencard. The Proof of Age Standards Scheme (PASS) is the UK's national guarantee scheme for proof-of-age cards as endorsed by the Home Office. More information can be found on The Proof of Age Standards Scheme (PASS) website.

6. DETERMINATION

6.1 In determining this application, the Committee must have regard to the representations and take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:

- (a) Grant the application in full
- (b) Grant the application in part – modifying the proposed hours, activities or conditions.
- (c) Reject the application

It is the Council's duty under the Licensing Act 2003 ("The Act") to determine applications with a view to promoting the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.

In reaching a decision the Council shall consider the details of any relevant representations received; the applicant's Operating Schedule; the Council's adopted Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Act.

If the Committee is minded to grant the application conditions may be attached to the licence to alleviate the concerns raised through the representations.