

Public Document Pack

HAVANT BOROUGH COUNCIL
PUBLIC SERVICE PLAZA
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HAVANT
HAMPSHIRE PO9 2AX



Havant
BOROUGH COUNCIL

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LICENSING SUB COMMITTEE AGENDA

Membership: Councillor G Shimbart (Chairman)

Councillors Mrs H Farrow and K Smith

Meeting: Licensing Sub Committee

Date: Thursday 3 October 2013

Time: 10.00 am

Venue: Tournerbury Room, Public Service Plaza, Civic Centre Road,
Havant PO9 2AX

The business to be transacted is set out below:

Jo Barden-Hernandez
Service Manager – Legal & Democratic Services

25 September 2013

Contact Officer: Penny Milne 023 9244 6234
Email: penny_milne@yahoo.co.uk

	Page
1. Declarations of Interests	
2. Review of Premises Licence for Clapp's Convenience Store, 236 Seafront , Hayling Island	1 - 30

The Licensing Sub-Committee is requested to determine an applications for a review of a Premises Licence in respect of Clapps Convenience Store, 236 Seafront, Hayling Island.

Appendices:

Report from the Licensing Officer
Application for Review of Premises Licence
Notice of Hearing
Information to accompany Notice of Hearing
Hearing Procedure

Relevant Regulations relating to Hearings
Representations
Notice of Intention

GENERAL INFORMATION

IF YOU WOULD LIKE A VERSION OF THIS AGENDA, OR ANY OF ITS REPORTS, IN LARGE PRINT, BRAILLE, AUDIO OR IN ANOTHER LANGUAGE PLEASE CONTACT DEMOCRATIC SERVICES ON 023 9244 6231

Internet

This agenda and its accompanying reports can also be found on the Havant Borough Council website: www.havant.gov.uk

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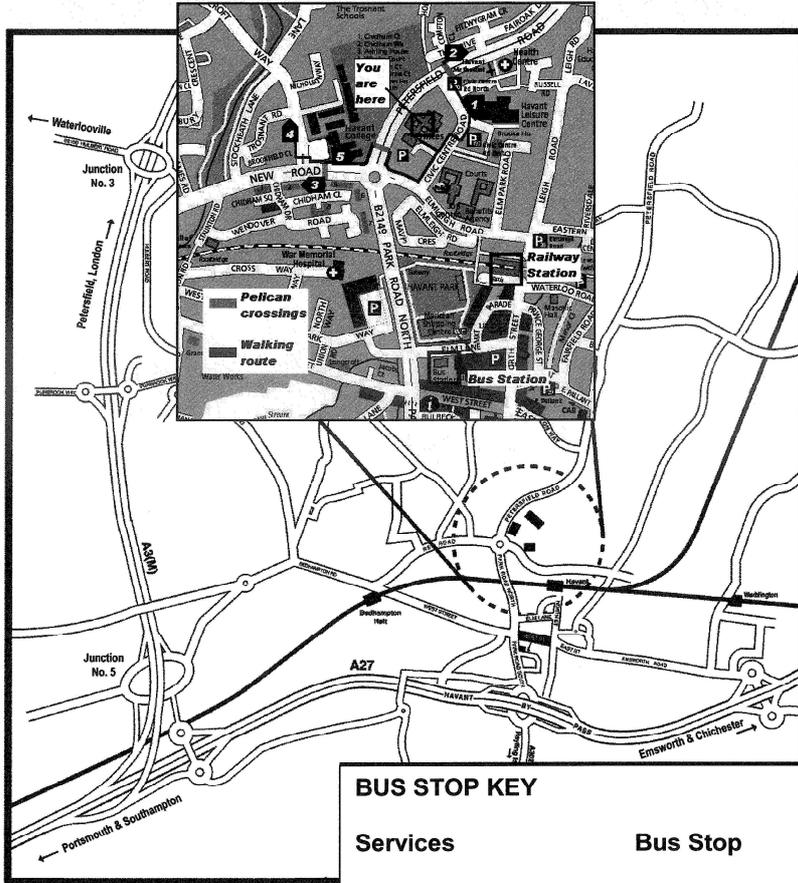
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20, 21, 39, 63	1
20, 21, 36**, 39	2
23, 36**	3
23, 27**, 37	4
23, 27**, 36**, 37	5

** - also stops "hail and ride" opposite Stop 1 in Civic Centre Road



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Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

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Review of Premises Licence for Clapp's Convenience Store, 236 Seafront , Hayling Island.PO11 0AU

Report by the Licensing Officer Mr Gerry Thorne.

Background

A Premises Licence under the Licensing Act 2003 was issued to Islandwide (Hampshire) on 24th November 2005 for Clapp's Convenience Store, 236 Seafront , Hayling Island.PO11 0AU. This company is owned by Mr Nigel Swan.

The Designated Premises Supervisor is Nigel Roy SWAN, of 236 Seafront Hayling Island, who has a personal licence HPE0333 Issued by Havant Borough Council and valid until 04/08/2015

The Licence is for the sale of alcohol for consumption off the premises, between the hours of 8.00am and 11.00pm Monday to Saturday., 10.00am to 10.30pm Sundays . Good Friday 8.00am to 10.30pm, and Christmas Day 12noon to 3.00pm and 7.00pm to 10.30pm

The Licence includes the following conditions :-

Mandatory Conditions: Where licence authorises supply of alcohol

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

- 1) The first condition is that no supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Further Conditions added 1st October 2010

- 1) (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their

photograph, date of birth and a holographic mark.

The Review Application

An application for a Review of the Premises Licence was made by the Hampshire Trading Standards on 9th August 2013. Detail of the review was served on Mr SWAN (as the Premises Licence Holder) and all the Responsible Authorities at the same time, and Notices were displayed on the Premises and at Havant Borough Council Offices and website for the regulatory 28 days.

A further representation has been made by PC Barron, Hampshire Constabulary . (Licensing Officer for the Havant district). His representation is based upon the same facts as those of the Trading Standards Officers and he is fully supportive of their aims in this case.

No further representations or letters in support of the Premises Licence Holder have been received.

The Review

The Review relates to concerns regarding the Licensing Objectives of:-

- The Prevention of Crime and Disorder
- The Protection of Children from Harm

In summary, the Hampshire Trading Standards have concerns regarding the control and operation of the store relating to the Licensing Objectives and in particular the role that the DPS has played in the running of the store.

Hayling Island is a pilot area for a Community Alcohol Partnership (CAP) run by Hampshire Constabulary and supported by HCC Trading Standards, Education, Havant Borough Council and other agencies to try and prevent children from accessing alcohol.

Hampshire Trading Standards have alleged that:

Trading Standards visited every shop on Hayling Island and gave them a retailer pack (for re training their staff) and also "Challenge 25" posters.

Clapp's Convenience Store received their pack on 2nd May 2012.

On 22 June 2012, Trading Standards conducted an alcohol Test purchase as part of the CAP project. Clapp's refused to sale alcohol to our 16 year old volunteer and the business was notified by letter of the refusal.

On 26 April 2013, Hampshire Constabulary conducted an alcohol test purchase using a volunteer under the age of 18. The volunteer entered Clapp's convenience store and was sold 4 cans of Fosters lager by Luke Smith who was issued with a Penalty Notice for Disorder for this offence. Mr

Smith has since paid the fixed penalty of £80.00. During this visit Mr Swan's son entered the store and was asked if his father was upstairs (as Mr Swan is the premises licence holder and also DPS). His son stated that his dad was upstairs asleep and under the influence of alcohol and therefore would not be able to help us presently.

On 9 May 2013, Trading Standards Officer (TSO) Worrall and PC Barron the Police Licensing Officer for Havant attended the store to see the owner and Designated Premises Supervisor (DPS) Mr Nigel Swan. He was given a Trading Standards action plan (appendix 1) which he was asked to adhere to. The most important parts of this action plan were to retrain their staff every month for the next three months, to challenge every individual who appeared to be under 25 seeking to purchase alcohol and to maintain a refusal log, which was to be checked every week by a member of the management.

The purpose of an action plan is to ensure that another under age sale did not take place, because if all staff adhere to that action plan, every person who appears to be under 25 would have to present valid I.D. and therefore those under 18 should not be able to purchase alcohol. The rationale behind training for the first three months is to try and prevent the shop reselling alcohol to a person under 18 and committing the criminal offence of 'Persistently selling alcohol to children' which if prosecuted carries a maximum fine of up to £20,000.

On 2 July 2013, TSO Stephen Lawford visited the store and spoke to a female assistant, she was asked if she had been retrained recently and if she knew where the training records and refusals book were. She was unable to locate the training records and the refusal book. The CAP retailer pack was found and only one member of staff had written in the pack confirming they had read it. TSO Lawford was extremely concerned that our action plan was not being followed.

On 18 July 2013 Trading Standards conducted an alcohol test purchase at the premises using a 16 year old female volunteer. She was sold 4 cans of Strongbow cider by Jeremy Podmore Wise. Mr Wise has been issued with a Penalty Notice for Disorder of £90.00 (fines were increased on 1/7/13).

On 19 July 2013 Mr Swan contacted HCC Trading Standards Service to arrange an appointment to discuss this latest failure. We decided on 23 July 2013.

On 23 July 2013 TSO Worrall issued Mr Swan with a closure notice under Sec 169 A(2) of the Licensing Act 2003 (a closure as an alternative to criminal prosecution for an offence of repeatedly selling alcohol to underage persons) The closure notice offered Mr Swan a 7 day closure during which sales of alcohol by retail are to be prohibited, beginning at 08:00 am 7 August 2013 until 08:00 am 14 August 2013. Also present at that meeting was PC Barron. Mr Swan was handed the closure notice (Appendix 2) and TSO Worrall explained that he could either accept the notice or choose to be prosecuted.

Mr Swan smelled strongly of alcohol and was asked if he had been drinking any alcohol that morning, he said that he hadn't.

On 5 August 2013 written acceptance of the closure notice was received from Mr Swan.

HCC Trading Standards Service and the Hampshire Constabulary believe that Mr Swan is unfit to be involved with a business selling alcohol. It is also clear that he has not adhered to or even attempted to comply with the action plan handed to him on 9 May 2013.

Therefore they feel that they have no alternative but to ask that this premises licence be revoked.

The Sub-Committee is requested to determine the application when they have heard from all parties.



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LICENSING ACT 2003 – SECTION 52(2)
APPLICATION FOR A REVIEW OF A PREMISES LICENCE
Clapps Convenience Store, 236 Seafront, Hayling Island

NOTICE

To: Applicant: Hampshire Trading Standards Service

Persons Who Have Made Relevant Representations:

PC1148 Phil Barron, Hampshire Constabulary, Licensing Department, Havant Police Station, Civic Centre Road, Havant. PO9 0AU

I HEREBY GIVE NOTICE that a hearing under Section 18(3)(a) of the Licensing Act 2003 to determine an application made by Hampshire Trading Standards Service of Hampshire County Council, Montgomery House, Monarch Way, Winchester, Hants SO22 5PW, for a review of a premises licence in respect of premises known as Clapps Convenience Store, 236 Seafront, Hayling Island, PO11 0AU, will be held by the Council's Licensing Sub-Committee in the Tournerbury Room at Havant Borough Council, Civic Offices, Civic Centre Road, Havant in Hampshire at 10.00am on Thursday, 3 October 2013.

Dated this 11th day of September 2013

Signed

Solicitor to the Council

Enclosures:

Information to Accompany a Notice of Hearing
Hearings Procedure
Relevant Regulations Relating to Hearings
Application for Review of Premises Licence
Representations
Notice of Intention

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LICENSING SUB- COMMITTEE

Information to accompany a Notice of Hearing

Notes:

The purpose of this guide is to advise you of the work and responsibilities of the Licensing Sub-Committee.

The purpose of the hearing is for the Sub-Committee to consider the application laid before it under the Licensing Act 2003, in the light of any representations received before or at the meeting, including those of the applicant or his representative.

The meeting is open to the public and the press. An interested party or responsible authority may attend and may be assisted or represented by any person whether or not that person is legally qualified. However, the Sub-Committee may exclude the public, including any party to the hearing, from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing (or part hearing) taking place in public.

The hearing procedure and relevant extracts from the Regulations relating to hearings are attached.

If you have notified the Council that you do not intend to attend the hearing or to be represented at the hearing, you should be aware that the hearing may proceed in your absence.

However, if you have not indicated such an intention to the Council and you then fail to attend or be represented at the hearing, the Sub-Committee may:

- adjourn the hearing to a specified date, if considered necessary in the public interest or
- hold the hearing in your absence.

Where a hearing is held in your absence, the Sub-Committee shall consider the application, plus any written representations you have made. Where the Sub-Committee adjourns the hearing to a specified date, all parties to the hearing will be notified of the date, time and place to which the hearing has been adjourned.

The Sub-Committee may require any person attending the hearing, who in its opinion is behaving in a disruptive manner, to leave the hearing forthwith and may:

- refuse to permit that person to return, or
- permit the person to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

Please note, that the Council may dispense with holding a hearing if all persons involved, i.e. the applicant, interested parties and responsible authorities, agree that such a hearing is unnecessary, by giving notice to the Council that they consider a hearing to be unnecessary.

Particular Points On Which the Council Considers it Will Want Clarification at the Hearing

None save those raised in the representations received.

HAVANT BOROUGH COUNCIL

HEARINGS PROCEDURE REVIEW OF PREMISES LICENCE – CLAPPS CONVENIENCE STORE 3 OCTOBER 2013

(in accordance with Regulations issued under the Licensing Act 2003)

- 1 The Chairman will explain to all those present how the hearing will be conducted. The parties to the hearing will be told it will be in accordance with this procedure, which will have been circulated to all parties in advance of the hearing.
- 2 Before the hearing commences the Chairman will:
 - (a) explain that a record will be taken of the proceedings in a permanent and intelligible form;
 - (b) ask all parties to the hearing if any of them wishes to withdraw any representations they have made;
 - (c) ask all parties to the hearing if any of them wishes to call witnesses and will seek the Sub-Committee's approval for witnesses to address the hearing.
- 3 The Licensing Officer will outline the nature of the application for a review of the premises licence and the reasons why the matter is before the Sub-Committee;
- 4 The Members, the Trading Standards Officers, the Police, the Licence Holder and any other persons who have made representations (or their respective representatives) may ask questions of the Licensing Officer;
- 5 The Trading Standards Officers, will be invited to submit representations to the Sub-Committee and call witnesses in support of their application for a review of the premises licence;
- 6 The Members, the Police, the Licence Holder and any other persons who have made representations, will be invited to ask questions of the Trading Standards Officers and/or their witnesses;
- 7 The Police will be invited to make representations to the Sub-Committee;
- 8 The Members, the Trading Standards Officers, the Licence Holder and any other persons who have made representations will be invited to ask questions of the Police and/or their witnesses;

- 9 Other persons who have made representations will be invited to submit their representations to the Sub-Committee;
- 10 The Members, the Trading Standards Officers, the Police and the Licence Holder will be invited to ask questions of those other persons who have made representations and/or their witnesses;
- 11 The Licence Holder, will be invited to submit representations to the Sub-Committee and call witnesses in support of their representations;
- 12 The Members, the Trading Standards Officers, the Police and any other persons who have made representations will be invited to ask questions of the Licence Holder and/or their witnesses;
- 13 The Trading Standards Officers will be given an opportunity to submit any final comments to the Sub-Committee;
- 14 The Police will be given an opportunity to submit any final comments to the Sub-Committee;
- 15 Other persons who have made representations will be given an opportunity to submit any final comments to the Sub-Committee;
- 16 The Licence Holder will be given an opportunity to submit any final comments to the Sub-Committee;
- 17 The Chairman will announce that the Sub-Committee will retire to consider its determination. The Sub-Committee, in retiring, will be accompanied by the Council's Solicitor, for legal advice only, and the Democratic Services Officer;
- 18 If at any time before making its determination, the Sub-Committee wishes to ask any additional questions of any of the parties, it will return to the Committee Room to ask those questions in front of all parties to the hearing. At this stage, the Chairman will allow further questions by any of the parties of those additional questions, if this is deemed necessary;
- 19 After any further retirement, the Sub-Committee will return to the Committee Room and the Democratic Services Officer will announce the decision of the Sub-Committee, together with the reasons for that decision.

Copy of Regulations 15 and 16 of The Licensing Act 2003 (Hearings) Regulations 2005

Right of attendance, assistance and representation

15. Subject to regulations 14(2) and 25, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

Representations and supporting information

16. At the hearing a party shall be entitled to—
- (a) in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d), give further information in support of their application, representations or notice (as applicable),
 - (b) if given permission by the authority, question any other party; and
 - (c) address the authority.

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**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

Page 1 of 3

Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

I PC 1148 Phil BARRON, on behalf of the Chief Officer of Hampshire Constabulary,
(Insert name of applicant)

- Apply for the review of a premises licence.
- Apply for the review of a club premises certificate.
(Select as applicable)
- Make a representation about a premises licence/club premises certificate

Premises or Club Premises details

Postal address of premises:	Clapps Convenience Store 236 Seafront Hayling Island
Postcode (if known):	PO11 OAU

Name of premises licence holder or club holding club premises certificate (if known)
Islandwide (Hampshire)

Number of premises licence or club premises certificate (if known)
HPR0124

Details of responsible authority applicant

Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title / Rank:	PC 1148 Licensing Officer
Surname: BARRON	First Names: Phil
Current postal address :	Licensing Department Havant Police Station Civic Centre Road
Postcode:	PO9 2AN
Daytime telephone number:	02392 891535
E-mail address: (optional)	phil.barron@hampshire.pnn.police.uk

Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003

**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

Page 2 of 3

This application to review relates to the following licensing objective(s)

- | | <i>Select one or more
boxes</i> |
|---|-------------------------------------|
| 1) The prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) Public safety | <input type="checkbox"/> |
| 3) The prevention of public nuisance | <input type="checkbox"/> |
| 4) The protection of children from harm | <input checked="" type="checkbox"/> |

Please state the grounds for review which must be based on one or more of the licensing objectives together with supporting information:

Hampshire Constabulary wish to make representation in support of Hampshire Trading standards review of the above premises in relation to the following licensing objectives, the prevention of crime and disorder and the protection of children from harm.

Evidence suggest across Havant Borough the majority of ASB incidents, criminal damage and minor assault are committed by juveniles. Those stop checked in the early evenings on Fri / Sat nights, a high proportion are in drink and some in possession of alcohol, which may have been purchased by proxy sale or by the individual. Since October 2012 Havant Police Licensing department have carried out extensive alcohol test purchase operations across the district.

The present Premises licence holder and DPS is Mr Nigel Roy SWAN.

On 26 April 2013, PC BARRON and local officers from the local SNT team conducted an alcohol test purchase op on the above premises using a male volunteer under the age of 18. The volunteer entered Clapps convenience store and was sold x 4 cans of Fosters lager by the cashier Luke SMITH. PC BARRON interviewed SMITH under caution and issued him with a £80.00 Fixed Penalty Notice for the offence of sale of alcohol to a person under the age of 18. Records show SMITH since paid the FPN. During the procedure PC BARRON spoke with Mr SWANS son. PC BARRON enquired if Mr SWAN was available. He confessed his father was upstairs and asleep under the influence of alcohol.

On 9 May 2013, PC BARRON and Trading Standards Officer (TSO) WORRAL attended the store in order to speak with the owner and (DPS) Mr Nigel SWAN. Mr SWAN was served with a Trading Standards action plan which is was supported by Hampshire Constabulary.

On 18 July 2013 Trading Standards conducted an alcohol test purchase at the premises using a 16 year old female volunteer. She was sold 4 cans of Strongbow cider by Jeremy Podmore Wise. On 25 July 2013 PC BARRON issued Mr WISE with a £90.00 Fixed Penalty Notice for he sale of alcohol to a person under 18. Records show that this notice has since been paid.

At 10.05 am on 23 July 2013 PC BARRON and (TSO) WORRAL visited the store. MR

**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

Page 3 of 3

SWAN was issued with a closure notice under Sec 169 A(2) of the licensing act 2013 by TS. HC fully supported the closure notice. At the time Mr SWAN smelt very strongly of alcohol. He was challenged if he had been drinking. He stated that he hadn't.

HC Believe that these test purchase failures are entirely due to poor management on the part of Mr SWAN. His failure to comply with the action plan handed to him on 9 May 3013 and promotion of the licensing objectives to his staff, have been a direct result of these failures. At this time Mr SWAN is unfit to be involved in the supply and sale of alcohol. The request by Trading Standards to revoke the premises licence is fully supported by Hampshire Constabulary.

Have you made an application for review relating to these premises before: Yes | No

If yes please state the date of that application:

/ /
Day Month Year

If you have made representations before relating to this premises please state what they were

Please tick

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I have sent a copy of this representation to the principal licensing officer of Havant Council

It is an offence, liable on conviction to a fine up to level 5 on the standard scale, under Section 158 of the Licensing Act 2003 to make a false statement in or in connection with this application

Signature of Officer Completing

Name Phil BARRON Collar Number: 1148
Signature: Date: 9/7/2013

Signature of Authorising Officer (Inspector or above)

Name Robert Mitchell Collar Number: Insp 1835
Signature: Date: 09/09/13

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Public Service Plaza, Civic Centre Road, Havant PO9 2AX
**Application for the review of a premises licence or club premises certificate under
the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases
ensure that your answers are inside the boxes and written in black ink. Use additional
sheets if necessary.
You may wish to keep a copy of the completed form for your records.

We Hampshire County Council Trading Standards Service wish to
(Insert name of applicant)

**apply for the review of a premises licence under section 51 of the Licensing Act
2003 for the premises described in Part 1 below (delete as applicable)**

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Clapps Convenience Store 236 Seafront	
Post town Hayling Island	Post code (if known) PO11 0AU

Name of premises licence holder or club holding club premises certificate (if known) Islandwide (Hampshire) Ltd

Number of premises licence or club premises certificate (if known) HPR0124
--

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates
(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick yes

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Hampshire County Council Trading Standards Service Montgomery House Monarch Way Winchester Hampshire SO22 5PW
Telephone number (if any) 01962 833345
E-mail address (optional) paul.worrall@hants.gov.uk

This application to review relates to the following licensing objective(s)

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
 - 2) public safety
 - 3) the prevention of public nuisance
 - 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 2)

Hampshire County Council Trading Standards Service are seeking a review on two of the four licensing objectives, namely the prevention of crime and disorder and the protection of children from harm after two failed alcohol test purchases in less than 3 months. Trading Standards have no confidence in the ability of the premises licence holder Mr Nigel Swan (trading as Islandwide Ltd) to run this business to meet these Licencing objectives.

Please provide as much information as possible to support the application (please read guidance note 3)

Hayling Island is a pilot area for a Community Alcohol Partnership (CAP) run by Hampshire Constabulary and supported by HCC Trading Standards, Education, Havant Borough Council and other agencies to try and prevent children from accessing alcohol.

Trading Standards visited every shop on Hayling Island and gave them a retailer pack (for re training their staff) and also "Challenge 25" posters.

Clapps Convenience Store received their pack on 2nd May 2012.

On 22 June 2012, Trading Standards conducted an alcohol Test purchase as part of the CAP project. Clapps refused to sale alcohol to our 16 year old volunteer and the business was notified by letter of the refusal.

On 26 April 2013, Hampshire Constabulary conducted an alcohol test purchase using a volunteer under the age of 18. The volunteer entered Clapps convenience store and was sold 4 cans of Fosters lager by Luke Smith who was issued with a Penalty Notice for Disorder for this offence. Mr Smith has since paid the fixed penalty of £80.00. During this visit Mr Swan's son entered the store and was asked if his father was upstairs (as Mr Swan is the premises licence holder and also DPS). His son stated that his dad was upstairs asleep and under the influence of alcohol and therefore would not be able to help us presently.

On 9 May 2013, Trading Standards Officer (TSO) Worrall and PC Barron the Police Licensing Officer for Havant attended the store to see the owner and Designated Premises Supervisor (DPS) Mr Nigel Swan. He was given a Trading Standards action plan (appendix 1) which he was asked to adhere to. The most important parts of this action plan were to retrain their staff every month for the next three months, to challenge every individual who appeared to be under 25 seeking to purchase alcohol and to maintain a refusal log, which was to be checked every week by a member of the management.

The purpose of an action plan is to ensure that another under age sale does not take place, because if all staff adhere to that action plan every person who appears to be under 25 would have to present valid I.D. and therefore those under 18 should not be able to purchase alcohol. The rationale behind training for the first three months is to try and prevent the shop reselling alcohol to a person under 18 and committing the criminal offence of 'Persistently selling alcohol to children' which if prosecuted carries a maximum fine of up to £20,000.

On 2 July 2013, TSO Stephen Lawford visited the store and spoke to a female assistant, she was asked if she had been retrained recently and if she knew where the training records and refusals book were. She was unable to locate the training records and the refusal book. The CAP retailer pack was found and only one member of staff had written in the pack confirming they had read it. TSO Lawford was extremely concerned that our action plan was not being followed.

On 18 July 2013 Trading Standards conducted an alcohol test purchase at the premises using a 16 year old female volunteer. She was sold 4 cans of Strongbow cider by Jeremy Podmore Wise. Mr Wise has been issued with a Penalty Notice for Disorder of £90.00 (fines were increased on 1/7/13).

On 19 July 2013 Mr Swan contacted HCC Trading Standards Service to arrange an appointment to discuss this latest failure. We decided on 23 July 2013.

On 23 July 2013 TSO Worrall issued Mr Swan with a closure notice under Sec 169 A(2) of the Licensing Act 2003 (a closure as an alternative to criminal prosecution for an offence of

repeatedly selling alcohol to underage persons) The closure notice offered Mr Swan a 7 day closure during which sales of alcohol by retail are to be prohibited, beginning at 08:00 am 7 August 2013 until 08:00 am 14 August 2013. Also present at that meeting was PC Barron. Mr Swan was handed the closure notice (Appendix 2) and TSO Worrall explained that he could either accept the notice or choose to be prosecuted. Mr Swan smelled strongly of alcohol and was asked if he had been drinking any alcohol that morning, he said that he hadn't.

On 5 August 2013 written acceptance of the closure notice was received from Mr Swan.

HCC Trading Standards Service believe that Mr Swan is unfit to be involved with a business selling alcohol. It is also clear that he has not adhered to or even attempted to comply with the action plan handed to him on 9 May 2013.

Therefore we feel that we have no alternative but to ask that this premises licence be revoked.

Appendix 1 Action Plan

Mr N Swan
Clapps Convenience Store
236 Seafront
Hayling Island
Hampshire
PO11 0AU

Enquiries to Paul Worrall My reference
Direct Line 01962 833345 Your reference
Date 2 August 2013
E-mail paul.worrall@hants.gov.uk

LICENSING ACT 2003

Dear Mr Swan

Please adhere to the following action plan.

A written log shall be kept of all refusals including refusals to sell alcohol. The holder of the premises licence shall ensure that the refusals log is properly maintained and checked, dated and signed on a weekly basis.

The holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase alcohol at or from the premises shall produce means of identification acceptable to the licensing authority - passport, photo driving licence or PASS accredited photo ID - proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

All staff shall be trained in appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Such training shall be provided not less than every three months, and written records shall be kept of all training and refresher training, but for the next three months training shall be provided every month.

'Challenge 25' posters shall be displayed in prominent positions at the premises.

All documents to be produced on request to police and trading standards officers.

Yours sincerely

Paul Worrall
Trading Standards Officer

Appendix 2 Closure Notice

CLOSURE NOTICE FOR PERSISTENTLY SELLING ALCOHOL TO CHILDREN

Section 169A(2) of the Licensing Act 2003

This notice offers a period of closure as an alternative to criminal prosecution for an offence of repeatedly selling alcohol to underage persons. It is addressed to the person(s) (which may include a company etc.) who hold the relevant premises licence for the premises concerned. A copy of this closure notice will be sent to the holder of the premises licence at the address for that person set out in the licence.

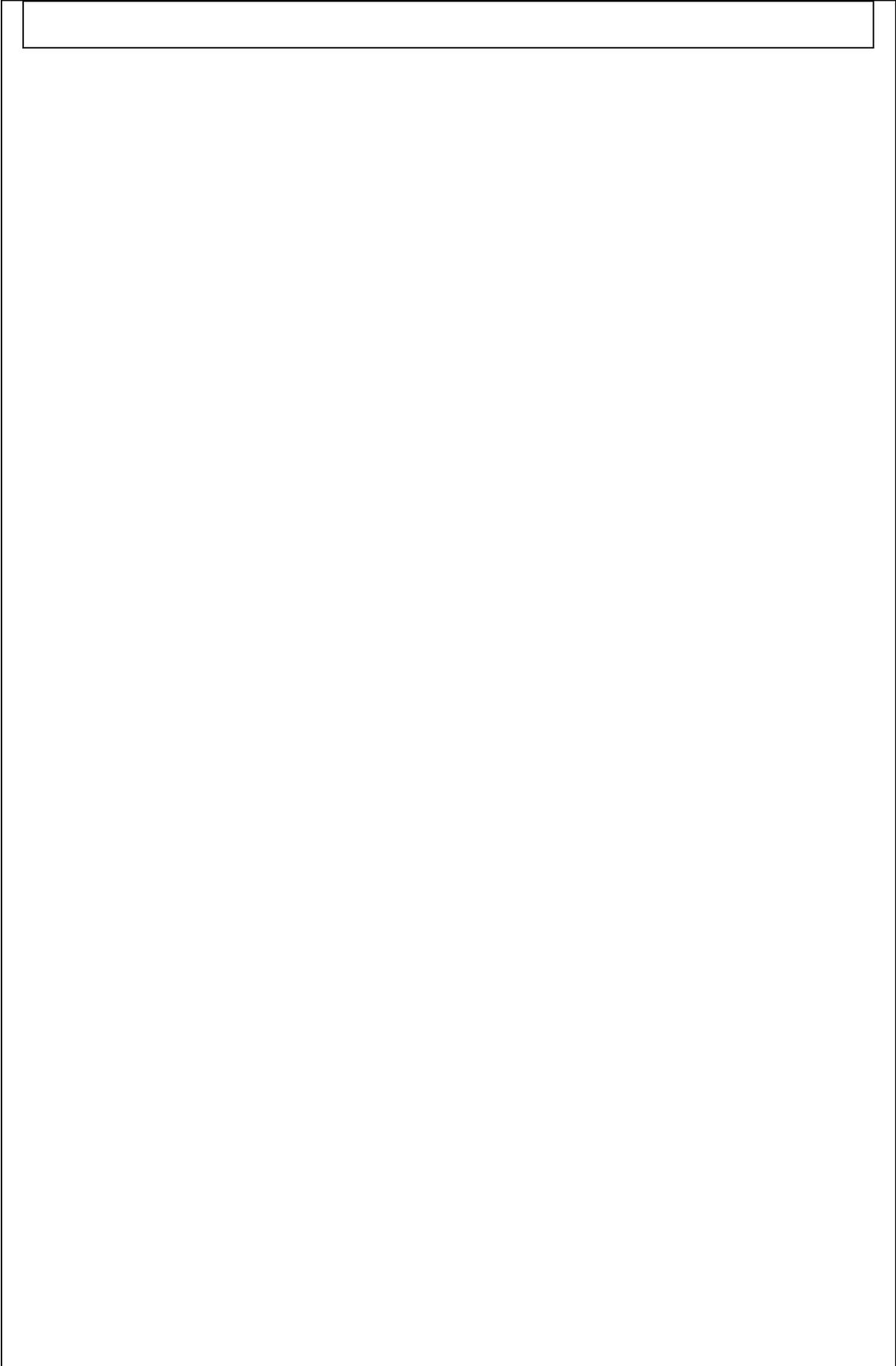
The premises licence holder(s) should read parts 10, 11, 12 and 13 of this notice with particular care as they contain information concerning their rights. If you have been handed this notice and are not the premises licence holder, you may wish to inform the premises licence holder(s) that this notice has been served.

1. Name of the inspector of weights and measures giving this closure notice.							
Julie Chambers – Team Manager Legal and Compliance							
2. Name of the trading standards officer serving this closure notice. (A closure notice may be served by being handed to a person on the premises who appears to have control of or responsibility for the premises and who need not be the premises licence holder).							
Paul Worrall							
3. Date on which closure notice is given.				2	3	0	7
				2	0	1	3

Details of premises and premises licence holder(s).	
4. Address of premises in respect of which this notice is being given.	Clapps Convenience Store, 236 Seafront, Hayling Island, PO11 0AU
5. Premises licence reference number and issuing licensing authority.	HPR0124 issued by Havant Borough Council
6. Name of premises licence holder(s).	IslandWide (Hampshire) Ltd
7. Address of premises licence holder(s). (This is the address to which a copy of this closure notice will be sent).	236 Seafront, Hayling Island, PO11 0AU

<p>8. Particulars of alleged offence under section 147A of the Licensing Act 2003, including:</p> <ul style="list-style-type: none"> • particulars of unlawful sales made to persons under 18; • dates of the sales; and • the individuals making the sales (so far as known). <p>(Note: you can be liable for the offence if you were a premises licence holder at the time each unlawful sale took place on the premises).</p>
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First unlawful sale:	Friday 26 th April 2013 @ 1929 hours where 4 cans of Fosters Lager was sold to a Hampshire Police volunteer aged 16 by Luke John Smith an employee of Clapps		
Second unlawful sale:	On Thursday 18 th July 2013 @ 1620 hours where a Trading Standards volunteer aged 16 bought 4 cans of Strongbow cider. This was sold by Jeremy Podmore Wise an employee of Clapps Convenience Store		
9. Proposed period (at least 48 hours but not more than 336 hours (14 days)) during which sales of alcohol by retail are to be prohibited (commencing not less than 14 days after this closure notice was served):			
From	Time:08:00	To	Time:08:00
	Date:7 th August 2013		Date:14 th August 2013
10. Effect of accepting of the proposed prohibition (closure)			
If you decide to accept the proposed closure (on how to do this, see part 12 below), all sales by retail of alcohol at the premises during the period specified in part 9 of this notice will be unauthorised. An unauthorised sale is a criminal offence (see section 136 of the Licensing Act 2003). A person guilty of an offence under that section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.			
11. Right to elect to go to trial			
You do not have to accept the proposed closure. As an alternative, you may elect to be tried in a court of law for the offence described in part 8 above. That right may exercised by informing the officer named in part 14 in writing or by e-mail.			
12. How to accept the proposed prohibition			
In order to accept the proposed closure, <u>all</u> premises licence holder(s) should notify the officer named in part 14 of their decision in writing or by e-mail within 14 days of this notice being served. Failure to notify the officer named in part 14 of acceptance of the prohibition within 14 days will be taken as a decision to elect for trial for the alleged offence described in part 8.			
13. Effect of a failure by one or more of the premises licence holders to accept the proposed prohibition.			
The right to be tried for the alleged offence described in part 8 of this closure notice will be taken to have been exercised unless every person who was a holder of the premises licence at the time this notice was given accepts the proposed prohibition.			
14. Name of the police officer or trading standards officer to whom notice exercising the option to accept the prohibition should be given, or election to go to trial must be sent, within 14 days.			
Trading Standards Officer Paul Worrall			
The address of the officer in part 14.			
Hampshire County Council Trading Standards Service Montgomery House Monarch Way Winchester SO22 5PW 01962 833345			
E-mail address of the officer in part 14.			
paul.worrall@hants.gov.uk			



Please tick

✓ **yes**

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to the premises please state what they were and when you made them

tick ✓ yes

Please

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature P. Worrall

.....

Date **9 August 2013**

.....

Capacity TSO

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

.....

Post town	Post Code
------------------	------------------

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

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**LICENSING ACT 2003
Notice of Intention**

To: Penny Milne, Democratic Services Officer, Havant Borough Council, Civic Centre Road, Havant, Hampshire PO9 2AX

Hearing Under Section 52(2) Licensing Act 2003

Application for Review of Premises Licence: Clapps Convenience Store, 236 Seafront, Hayling Island, PO11 0AU

Applicant: Hampshire Trading Standards Service
Address: Hampshire County Council, Montgomery House,
Monarch Way, Winchester, Hants., SO22 5PW
Date and time of Hearing: 3 October 2013, 10am
Venue: Tournurbury Room, Havant Borough Council, Public Service Plaza, Civic Centre Road, Havant, PO9 2AX

I/We* *(please print name)* **hereby give NOTICE that:**

- 1 I/We* shall/shall not* attend the above hearing
- 2 I/We* shall be represented at the above meeting by

(Insert Name and Address)

- 3 I/We* hereby seek permission to invite the following additional person(s) to appear at the hearing:
(Continue on separate sheet (if necessary))

Name	Brief Description Of Main Points That Person Needs to Make And Why This Is Of Assistance To The Council
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- 4 I/We* consider the above hearing to be necessary/unnecessary*

Signed _____

Dated _____

* Delete as appropriate

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