

**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.