

Review of Premises Licence for Stop and Shop 407 Middle Park Way Leigh Park

Report by the Licensing Officer

Background

This is the third request for a review of this premises licence by Trading Standards. The first review was held on the 12 April 2013 following two offences of selling alcohol to underage persons. A further review was conducted on the 29 November 2013 following a further under age sale.

The Premises Licence under the Licensing Act 2003 was originally issued to Jagdish PATEL on 12 July 2010 for Stop and Shop (formerly Kwiki Mart) 407 Middle Park Way, Leigh Park. Following the decision of the licensing sub committee review hearing on the 12 April 2013, the premises Licence was transferred to Mr PATEL'S Partner, Netra PATEL, of 126 Parkhouse Farm Way, Leigh Park, PO9 4DP.

The Designated Premises Supervisor is also Mrs Netra PATEL, who has a personal licence 08/00390/LIPERS Issued by Croydon Borough Council and valid until 01/04/2018.

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 Mandatory Conditions added 1 October 2010

- 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.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY ON 29 NOVEMBER 2013

- 1) Any member of staff who is authorised to sell alcohol at the premises will pass the Level 2 BIIAB Award for personal licence holders course or equivalent course within 3 months of the commencement of their employment, or within such other period of time agreed by Hampshire County Council Trading Standards Department. Thereafter the member of staff will receive refresher training regarding 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, every 6 months. Records of this training will be kept which should be signed and dated by the member of staff who received that training. All training records will be made available immediately upon the request of Hampshire Constabulary or any other responsible authority. Training records will be kept on the licensed premises to which they relate for a minimum period of two years.
- 2) The designated premises supervisor will pass the Level 1 BIIAB Designated Premises Supervisor course or equivalent within 3 months of their appointment as the Designated Premises Supervisor.
- 3) A written log shall be kept of all refusals of age restricted products, including refusals to sell alcohol. This log will also record the sale of alcohol where the Challenge 25 policy has been applied and the customer has then produced appropriate identification allowing the sale to conclude. The premises licence holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the designated premises supervisor. The refusal log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any other responsible authority. Records of refusals will be retained for 12 months.
- 4) There will be a challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual who visually appears to be under the age of 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce

identification proving that individual to be 18 years of age or older. Acceptable identification for the purpose of age verification will include a driving licence, passport or photograph bearing the "PASS" logo and the persons date of birth. 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. Challenge 25 posters shall be displayed in prominent positions at the premises.

- 5) The premises shall have sufficient cameras located within the premises to cover all public areas including the outside of the premises covering the entrance and exit.
 - i) The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas.
 - ii) CCTV warning signs to be fitted in public places. The CCTV system must be operating at all times whilst the premises are open for licensable activity.
 - ii) All equipment shall have a constant and accurate time and date generation.
 - iv) The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
 - v) The premises licence holder must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with i.e. password protected.
 - vi) Viewable copies of CCTV footage will be supplied to the police within 24 hours of their request. Any images recovered must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.
 - vii) In the event of a technical failure of the CCTV equipment the premises licence holder or designated premises supervisor must report the failure to the police licensing unit within 24 hours.

This Review Application

An application for a Review of the Premises Licence was made by the Hampshire Trading Standards on 25 March 2014. Details of the review were served on Mrs PATEL (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 . (Police 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.

A representation in favour of the Premises owners has also been received from Mr Richard HUDSON (Licensing Consultant)who is acting on their behalf. The summary of his representation is that since the review hearing in April 2013 Mrs Patel has fully complied with and implemented all of the conditions imposed upon the licence at that hearing. And that by complying with all the instructions, conditions and the work that she and her husband have carried out, that they have exercised all due diligence in attempting to prevent sales to persons under 18 years of age.

Circumstances leading to Review

This is the third application by Hampshire County Council Trading Standards for a review of the premises licence for Stop and Shop in 2013.

Both of the previous review applications refer to alcohol test purchase failures at the shop.

Recent History at Stop and Shop

30/10/12 Police Test Purchase failure

21/12/12 Trading Standards Test Purchase failure

03/04/13 to 10/04/13 a 7 day closure order was implemented

22/02/13 Trading Standards applied for a review of the premises licence

12/04/13 Review Hearing

During this hearing trading standards expressed concerns over this premises and agreed that a voluntary closure and a voluntary suspension of the premises licence was acceptable due to the severity of the failures.

Trading Standards also stated at the hearing that this premises was living on the edge and could not afford another failure. The next time there was to be a failure trading standards would ask the licensing committee to revoke the premises licence.

18/07/13 Trading Standards conducted an alcohol test purchase on the premises and our volunteer was refused the sale of alcohol. This was the first test after the review and was deliberately delayed to allow for training to take place and to check that the conditions and training were working.

04/09/13 Trading Standards conducted an alcohol test purchase whereby a 16 year old female volunteer was sold 4 cans of Strongbow.

29/11/13 A request for a Review was made by trading standards and the Licensing committee heard the application. On this occasion they decided that

it was not necessary to take any formal action against the Premises Licence holder.

20/02/14 A further test purchase was carried out at the shop and again a volunteer under the age of 18yrs was sold alcohol. The member of staff was issued a Penalty Notice for disorder for the offence of selling alcohol to a person under 18 years and has since been dismissed from employment at the shop.

Conclusion

Trading Standards feel that this latest failure is indicative of a general failure by the Premises Licence holder to manage the sale of alcohol and feel that they have no option but to request the committee considers revocation of the premises licence.

Responsible authorities when applying for reviews have to apply one or more of the four licensing objectives, in this case the protection of children from harm in trying to prevent children from purchasing alcohol and also the crime and disorder objective, a criminal offence has occurred when alcohol was sold to a child.

All staff have received additional training to a higher level than most other store assistants in the area, the shop has had new and stringent conditions imposed on the premises licence after the first hearing and still failed a test purchase. The owners Mr and Mrs Patel have complied with all the conditions on their licence and yet there was still a failure. New conditions, additional training and mandatory and voluntary suspensions of the licence appear not to have worked.

The Sub-Committee has the authority to take the following steps:

1. Modify the Licence
2. Exclude a Licensable activity from the scope of the licence
3. Remove the designated premises supervisor
4. Suspend the licence for a period not exceeding 3 months
5. Revoke the licence.

The sub committee is requested to determine the application when they have heard from all parties.