

HAVANT BOROUGH COUNCIL

At a meeting of the Licensing Sub Committee held on 3 October 2013

Present

Councillor Shimbart (Chairman)

Councillors Farrow and Smith K

Officers:	Hannah Newbury	Senior Solicitor
	Mark Gregory	Democratic Services Officer
	Gerry Thorne	Licensing Officer
	Mr S Lawford	Hampshire Trading Standards Officer
	Ms M Blaylock	Hampshire County Trading Standards Officer
	PC1148 P Barron	Licensing Officer
	Mrs A Chestnutt	Mr Swan's Representative
	Mr N Swan	Designated Premises Supervisor
	Mr D Sawyer	Proposed Designated Premises Supervisor

5 Declarations of Interests

There were no declarations of interests from any members present in respect of the following item on the agenda.

Introduction and Procedure

Prior to hearing the applications for review the Chairman outlined the procedure for the hearing (Minute 6) and confirmed that a permanent record of the proceedings would be kept. The Chairman asked if anyone wished to withdraw their representations. No representations were withdrawn.

Mrs Chestnutt confirmed that she wished to address the hearing on behalf of Mr Swan.

Mr Lawford confirmed that that he wished to address the hearing on behalf of Hampshire County Trading Standards.

Mr Thorne advised that the application had been advertised in accordance with the relevant regulations.

6 Review of Premises Licence for Clapp's Convenience Store, 236 Seafront, Hayling Island

The following documents were submitted to the Sub-Committee:

- (i) a report from the Licensing Officer;
- (ii) Notice of Hearing and enclosures;

- (iii) Application for a Review;
- (iv) Statement submitted by the Police;
- (v) Statement submitted on behalf of the Premises Licence Holder; and
- (vi) A statement from Mr Hutchinson read to the Sub Committee by Mrs Chestnutt.

The Licensing Officer presented his report to the Sub-Committee and gave an outline of the application and the representations received.

Both parties were invited to make representations to the Sub-Committee in relation to the application. Both parties responded to members' questions and were given an opportunity to ask questions of each other.

In response to a questions raised by members of the Sub Committee, Mr Lawford, PC Barron, Mr Mrs Chestnutt, Mr Swan replied as follows:

Mr Lawford

- (a) It was not known whether a representative from Clapp's Convenience Store attended the launch of the Hayling Island Community Alcohol Partnership. However, Trading Standards would have visited the shop and left a retail pack;
- (b) The member of staff questioned on 2 July 2013 had not been trained;
- (c) It was not known if the store proposed further training or if Mr Podmore Wise had been trained;
- (d) The Closure Notice issued on 23 July 2013 related to the sale of alcohol and had been complied with;
- (e) each Premises Licence Holder was responsible for ensuring that all staff serving alcohol were trained: the form and level of training was also the responsibility of the Premises Licence Holder. Challenge 25 required that training should be recorded and that staff signed a declaration to show that they had received training;

PC Barron

- (f) the Police and Trading Standards would have visited the shop on 26 April at approximately 7.30 pm;

Mrs Chestnutt

- (g) was not present at the premises on 23 April so could not comment on the Trading Standard's comments relating to Mr Swan being under the influence of alcohol;
- (h) Although the parent company owned two premises, Mr Swan was the manager of Clapps Convenience Store;

Mr Swan

- (i) retired to bed at 8 pm everyday as he dealt with the paper deliveries every morning. He was therefore, in bed when Trading Standards and the Police visited his premises on 23 April: he was not under the influence of alcohol;

In response to questions raised by Mr Lawford, Mrs Chestnutt advised that:

- (a) it was acknowledged that training had not been recorded in the past: steps had now been taken to train staff and to record this training;
- (b) although she had not seen the action plan, she would not doubt its clarity: it was acknowledged that the plan was not followed. To correct these failings, Mr Swan would resign as the DPS and action would be taken to ensure compliance with the law in future;
- (c) Action would be taken to ensure that all refusals were recorded and the booked signed by the DPS: the refusals book would also record where people had been challenged but not refused;
- (d) A limited company owned the premises: Mr Swan and his ex wife were the directors of this company;
- (e) Mr Swan would continue to be involved with the paper deliveries and ordering stock.
- (f) Mr Sawyer would be required to be present at the shop for 40 hours a week. His job description would include a requirement that he ensured that the Challenge 25 policy was complied with;
- (g) The training of all staff to Level 2 Of BIIAB was not financially viable;
- (h) When Mr Sawyer became the Designated Licence Supervisor he would be able to train the staff to the appropriate level;

- (i) CCTV had been installed and the recordings were kept for 30 days on a rolling programme;
- (j) It was hoped that details of criminal records for Mr Sawyer would be received from Disclosure Scotland within the next seven days

Mr Thorne advised that all other documentation had been received from Mr Sawyer and subject to a satisfactory CRB check a licence could be granted within forty eight hours after the receipt of the CRB check. Mr Thorne raised some concerns about whether Mr Sawyer would be able to turn this problematical store around.

Mr Sawyer advised the Sub Committee that he had a lengthy experience in the licensing trade including working for Potter Snooker Club. He had also worked in a One Stop store and had been trained up to Level 3 with a view to becoming a Designated Premises Supervisor in the West Leigh One Shop Store.

In response to further questions from members of the Sub-Committee and Mr Thorne, Mr Swan, Mrs Chestnutt and Mr Sawyer advised that:

- (A) there would be 1 to 3 staff (including the manager) in the store at any time: after 6pm there would only be 1 member of staff to reflect the level of trade transacted;
- (B) there were approximately 10 to 15 refusals each week;
- (C) staff had been trained to challenge anyone who appeared to be under the age of 25; after discussing the matter with Mr Thorne, it had been agreed that all challenges would now be recorded;
- (D) after discussing the current practices with Mr Thorne, it had been agreed that a document showing all staff authorised to sell alcohol be displayed in the premises;
- (E) 25 to 28% of the shop's sales were alcohol related;

In his final submission, Mr Lawford drew the Sub-Committee's attention to the offences committed and the seriousness of these offences. With reference to the concerns raised by Mr Thorne, he raised doubts over whether the steps proposed by Mrs Chestnutt were sufficient to overcome the failings identified with the operation of the store. Mr Lawford suggested that if the Sub Committee was minded to grant permission, it should:

- (1) require all staff, who sold alcohol to be trained up to Level 2 BIIAB;
- (2) require the Designated Premises Supervisor to be trained to Level 2 BIIAB;

- (3) the licence should be suspended for a period of three months in view of the seriousness of the offences; and
- (4) the licence be amended to prohibit the sale of alcohol after 3pm to enable the licensee to demonstrate that the business was capable of selling alcohol legally.

Mrs Chestnutt in her final submission advised that:

- (a) Mr Sawyer had already achieved Level 3 BIIAB;
- (b) the licence holder would be able to ensure that all staff were trained to a sufficient standard without having to resort to formal training courses: the business could not afford to pay for its staff to attend the Level Two Course; and
- (c) the business was willing to work with Trading Standards and the Council's Licensing Officer to ensure that there were no further offences.

PC Baron advised that he nothing to add.

In response to further questions from members of the Committee, Mrs Chestnutt and Mr Swan advised that:

- (1) arrangements had been made with the other director of the parent company to ensure that she would cover for Mr Sawyer in his absence: these arrangements would be reviewed; and
- (2) the training requirements for Challenge 25 and the Licensing Act according to Mr Lawford were not complicated and formal training was not required as a norm: the business could not meet the cost of training all staff to level 2 (the average cost was £160 per person).

RESOLVED that:

- (A) provided that Mr Sawyer would become the Designated Premises Supervisor of Clapp's Convenience Store, 236 Seafront, Hayling Island and having considered the application for review by Hampshire County Council Trading Standards, the following steps be undertaken in relation to Clapp's Convenience Store:
 - (a) The premises licence be suspended for a period of fourteen days from the date this decision comes into effect under Section 52(11) of the Licensing Act 2003 (as amended)
 - (b) The premises licence be amended to include the following conditions:

- (1) In addition to the DPS, at least 1 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 today's date. 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) 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.
- (3) 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.
- (4) A document prominently be displayed on the premises showing, who is authorised by the DPS to sell alcohol.

- (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.
- (6) The premises shall have a CCTV system which shall include the following features:
 - (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.
 - (iii) 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.
- (B) In the event of Mr Sawyer not becoming the DPS, the application for review be brought to the Committee for further consideration.

The Sub Committee was satisfied that the above steps and additional conditions would adequately address the concerns raised by the Police and Hampshire County Trading Standards and were proportionate.

The Sub Committee was satisfied that the additional conditions were necessary to promote the following licensing objectives:

- (1) crime and disorder; and
- (2) protection of children from harm

The meeting commenced at 10.00 am and concluded at 12.35 pm