

HAVANT BOROUGH COUNCIL

At a meeting of the Licensing Sub Committee held on 16 July 2014.

Present

Councillor Gibb-Gray (Chairman)

Councillors Tarrant and Ponsonby

Officers:	Tristan Fieldsend	Democratic Services Officer
	Hannah Newbury	Council's Senior Solicitor
	Hilary Smith	Licensing Officer
	Gerry Thorne	Licensing Officer
Licensee	Mrs D Chestnutt	Licence Holder's Representative
	Mr D Sawyer	Designated Premises Supervisor
	Mr N Swan	Licence Holder's Representative
Police	PC1148 P Barron	Hampshire Constabulary
Applicant	Paul Worrall	Hampshire Trading Standards

3 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

The commencement of the meeting was delayed until 10.00am to give the parties time to resolve an issue over the Supplementary Information submitted by the Licensee.

Prior to hearing the application for review the Chairman outlined the procedure for the hearing (Minute 4) 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 No representations were withdrawn.

4 Licensing Hearing

The Sub-Committee considered an application by the Hampshire Trading Standards Service for review of a Premises Licence in respect of Clapps Convenience Store, 236 Seafront, Hayling Island.

The following documents were submitted to the Sub-Committee:

- (i) Report of Licensing Officer;
- (ii) Notice of Hearing;
- (iii) Application for Review;

- (iv) Representation from the Police;
- (v) Representation from the Licence Holder;
- (vi) Information to Accompany Notice;
- (vii) Relevant Regulations Relating to Hearings;
- (viii) Hearings Procedure;
- (ix) Additional Information Supplied by Trading Standards.
- (x) Additional Information Supplied by the Licence Holder's Representative
- (xi) Supplementary Information Supplied by Trading Standards; and
- (xii) Supplementary Information Supplied by the Licence Holder's Representative

All parties agreed to Mrs S Bryan, Senior Lawyer (Contentious), accompanying the Sub-Committee when it retired to determine the hearings for observation purposes only.

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

Mrs Chestnutt confirmed that he wished to address the meeting on behalf of the Licensee.

PC Barron confirmed that he wished to address the meeting on behalf of Hampshire Constabulary.

The Licence Holder's Representative withdrew the further information circulated to the Sub-Committee on 14 July 2014 and asked that the Sub-Committee did not take this further information into account.

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.

The Trading Standards Officer highlighted the following points:

- (a) It was explained that each volunteer who carried out a test purchase was specifically chosen to look 16 years of age and was provided with appropriate training;

- (b) The Trading Standards Officer requested that the Sub-Committee disregard the revised recommendation referred to in (xi) above and recommended that the licence be revoked as stated in the original application.

In response to questions raised by members of the Sub Committee and Mrs Chestnutt, Mr Lawford and PC Barron advised that:

- (a) A Trading Standards Officer accompanied every volunteer who carried out a test purchase;
- (b) Volunteers were recruited through a combination of word of mouth, contact from local colleges and through the Trading Standards and Hampshire County Council websites; and
- (c) Every off licence on Hayling Island had been tested within the past 18 months.

Mrs Chestnutt highlighted the following points:

- (a) The volunteer who carried out the test purchase was a mature 16 year old;
- (b) A combination of mystery shopping and inspections would provide a fairer system of assessing how a premises was performing rather than the test purchase system;
- (c) Any suspension of the licence would not be appropriate as there had been no evidence of under age sales outside of the test purchases;
- (d) The premises had received a lack of support from Trading Standards;
- (e) Four members of staff were now trained to ALPH level and a fifth was due to take the course in September 2014;
- (f) It would be detrimental to the business if a condition was imposed for all staff to be trained to ALPH level. It would be more appropriate for staff to be trained through the use of the Alcohol Workbook and CAP training material;
- (g) It was essential for all premises throughout the Borough to be treated identically as it was felt the selling of alcohol locally was undertaken with varying degrees of robustness; and
- (h) Mrs Chestnutt outlined procedures which could be implemented without the need to impose further conditions or a suspension.

In response to questions raised by members of the Sub-Committee Mrs Chestnutt advised that:

- (a) There were currently 8 members of staff employed; and
- (b) For all evening shifts there would be either one or two members of staff working reinforced through the use of CCTV.

In his final submission, Mr Worrall drew the Sub-Committee's attention to the offence committed and the seriousness of this offence. The premises had now failed three test purchases and the failure to address these issues meant the revocation of the licence would be the appropriate action to take.

In his final submission, PC Barron advised that the test purchase failures were due to poor management of the premises and a failure to comply with conditions previously imposed. The standard of the managerial arrangements currently in place to sell alcohol was questioned and therefore there was no alternative but to revoke the licence.

Mrs Chestnutt in her final submission advised that the premises did uphold the licensing objectives and there was no evidence to suggest it was responsible for any public disorder or to suggest the management structure was unfit to sell alcohol. Any suspension of the licence, or the addition of extra conditions, would not be required as the premises already had in place robust systems for the selling of alcohol.

**The Sub-Committee adjourned from 11.10am until 12.10pm
to consider the Application**

**At 12.10am the meeting reconvened and the Democratic Services Officer
read the decision to the parties.**

DECISION OF THE LICENSING SUB-COMMITTEE

RESOLVED that the premises licence be revoked on the grounds that the following licensing objectives had been breached, namely, the prevention of crime and disorder and the protection of children from harm.

In making the decision the Sub-Committee had regard to:

- 1) The breaches of conditions 2 and 3 which were imposed on 3 October 2013;
- 2) A further failed test purchase on 20 February 2014; and
- 3) The fact that a further suspension of the premises licence, or the addition of extra conditions, would not be appropriate as these would not promote the licensing objectives in the interests of the wider community.

In reaching its decision the Sub-Committee had regard to the amended guidance issued under section 182 of the Licensing Act 2003, in particular paragraphs 11.26 to 11.28.

The meeting commenced at 10.00 am and concluded at 12.12 pm

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Chairman