

**SHEFFIELD CITY COUNCIL**

**Licensing Sub-Committee**

**Meeting held 12 February 2013**

**PRESENT:** Councillors John Robson (Chair), Ian Saunders and Stuart Wattam

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**1. APOLOGIES FOR ABSENCE**

1.1 No apologies for absence were received.

**2. EXCLUSION OF PUBLIC AND PRESS**

2.1 No items were identified where resolutions may be moved to exclude the public and press.

**3. DECLARATIONS OF INTEREST**

3.1 There were no declarations of interest.

**4. LICENSING ACT 2003 - ONE STOP, 30 TILFORD ROAD, SHEFFIELD, S13 7QP**

4.1 The Chief Licensing Officer submitted a report to consider an application made by South Yorkshire Police, under Section 51 of the Licensing Act 2003, for a review of the Premises Licence in respect of the premises known as One Stop, 30 Tilford Road, Sheffield, S13 7QP.

4.2 Present at the meeting were Inspector Jason Booth and Lizzie Payne (South Yorkshire Police, Applicants), Nicola Smith (Solicitor, representing One Stop), Sarah Marklew (Trading Law Manager, One Stop), Andrew Hopkin (Head of Trading Law, One Stop), Nigel Barker (Area Manager, One Stop), David Nash (Regional Manager, One Stop), Andy Ruston (Senior Licensing Officer), Matt Proctor (Senior Licensing Officer, observing), Kavita Ladva (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

4.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from the Sheffield Safeguarding Children Board and were attached at Appendix 'B' to the report. There was no representative from the Board at the meeting.

4.5 Inspector Jason Booth reported that the Police's grounds for the review were based on two objectives under the Licensing Act 2003, namely the prevention of public nuisance and the protection of

children from harm. He stated that the premises had been the subject of recent test purchase operations and that since 30<sup>th</sup> May 2012, of the six test purchase operations undertaken, three had been failed and three had been passed. The test purchase operations were conducted to provide a positive response and action following complaints from the public and observations from Police staff that many incidences of anti-social behaviour involved young people under the age of 18, who have acquired alcohol and/or were under the influence of alcohol. Many instances of concern by local residents related to shopping precincts, park areas and other similar hotspots, which suffered from graffiti, criminal damage and threatening behaviour by these young people towards other law abiding members of the public. In terms of the issue of child safety, alcohol acquired by young people illegally was often passed to even younger children and overindulged by all, thereby causing serious concern for health and safety. Inspector Booth referred to the failed test purchase operations, which had occurred on 30<sup>th</sup> May, 23<sup>rd</sup> June and 22<sup>nd</sup> November 2012, and had all included alcohol being sold by members of staff of One Stop to Police volunteers, who were all aged under 18. He also made reference to visits by staff of the Police Licensing Section to the premises and a meeting held with the Designated Premises Supervisor (DPS) following the failed test purchase operations. Reference was also made to the fact that the DPS and three staff members had attended the Multi-Agency Safeguarding Children Training Course on 11<sup>th</sup> July 2012, and to the test purchase operations which had been passed on 25<sup>th</sup> August, 5<sup>th</sup> October and 2<sup>nd</sup> November 2012. Inspector Booth reported on the continued successful operation of the Designated Public Place Order (DPPO) in the Woodhouse area and reported that the Police had serious concerns with regard to the management of One Stop, and had requested that it takes reasonable steps to ensure that there was no re-occurrence of the failed test purchase operations.

- 4.6 In response to questions from the Solicitor to the Sub-Committee, Inspector Booth stated that, whilst he could not provide any specific evidence to prove that any public nuisance or anti-social behaviour had been caused by young people in the area who had purchased alcohol from the premises, the Police had worked very hard with local partners to reduce street drinking in Woodhouse. The Police had not organised any further test purchase operations or taken any further action in connection with the operation of the premises since the test undertaken on 22<sup>nd</sup> November 2012. He confirmed that he had read all the statements and information provided by One Stop in terms of the action and intervention measures the company had taken following the three failed test purchase operations, including the statement of Nigel Barker, Area Manager, as set out in the additional information provided by the Company's Solicitor prior to the hearing. In terms of the additional conditions the Company were suggesting be added to the Premises Licence, he confirmed that this would be a positive step and it was what the Police would want to be moving towards.

- 4.7 In response to questions from Nicola Smith, Inspector Booth confirmed that he was aware of the Responsible Retailer Scheme, indicating that he believed shops required the signatures of 50 customers before they could join the Scheme. He confirmed that, after the failed test purchase operation on 25<sup>th</sup> June 2012, the DPS (Ian Coxon) had instigated a meeting with the Police and a representative of the Sheffield Safeguarding Children Board. He also confirmed that the DPS and three other staff members had attended the Multi-Agency Safeguarding Children Training Course on 11<sup>th</sup> July 2012, and that arrangements had been made for seven members of staff to undertake the Premises Licence Holder courses held on 4<sup>th</sup> October and 29<sup>th</sup> November 2012. Inspector Booth could not provide any details of the staff members on duty on the three occasions when the test purchase operations were passed. He was aware that disciplinary action had been taken against the member of staff on duty following the failed test purchase operation on 22<sup>nd</sup> November 2012. There had been two test purchase operations in such a short period – 2<sup>nd</sup> and 22<sup>nd</sup> November 2012 – as this was around the Dark Nights operation, when there was usually an increase in anti-social behaviour. He confirmed that the Police had only organised one test purchase operation on 2<sup>nd</sup> November 2012, and that any reference to two tests being undertaken on that day must have been an administrative error. Inspector Booth concluded his responses by confirming that whilst he could not provide any evidence to show that any anti-social behaviour in Woodhouse had been as a direct result of young people consuming alcohol which had been purchased from the premises, he confirmed that any incidents of street drinking and anti-social behaviour had, and would continue, to be dealt with effectively by the Police, working with local partners in the area.
- 4.8 Nicola Smith stated that One Stop Stores Limited and its management took the issue of under-age sales very seriously and had been very disappointed with regard to the failure of the test purchase operations. The Company had looked into the case in detail and had taken relevant steps to address the issues. She stated that One Stop Stores Limited was a national company, with 638 convenient stores across the country. There were two other stores in Sheffield, with the store on Tilford Road opening in March 2011. The stores were known as convenience stores, in that there was a limited range of everyday goods on sale, which included alcohol and cigarettes. The store also contained a PayPoint facility and provided mobile phone top-ups. All the staff employed at the store were from the local area and the Company encouraged staff at its stores to organise various charitable events, which had included donations to the Woodhouse Forum and Children in Need. The Company had made a significant investment in the premises, which had included a £140,000 refurbishment, £10,000 on storage facilities and new shutters, and £6,000 on a new CCTV system. The premises had been purchased on a 15-year lease, meaning that the Company were committed to trading in the area for

the long-term. In terms of staff training, Ms Smith reported that all staff undertook detailed training in respect of under-age sales and conflict management, including refresher training at regular intervals. There were till prompts on all tills in the store to be used during the sale of all age-restricted products, which was an interactive system, asking the sales staff a number of questions, which they had to respond to. Both Challenge 21 and Challenge 25 were in operation at the store, and there was a number of signs both inside and outside the store, advertising this. There was also a Law Poster in the store, which all members of staff were required to sign to indicate that they had received the relevant training in all aspects of the business, including under-age sales. Any members of staff failing test purchases would be required to pay any subsequent fines. The Company also required that all members of staff should have written permission before they could sell alcohol and were required to acquaint themselves with the conditions of the Premises Licence. The Company used an electronic refusals log which stored information every time a customer was challenged by a member of staff when purchasing age-restricted products, and the logs were monitored regularly so that any trends in terms of specific members of staff could be identified. The Company also employed an independent test purchase company, a representative of which would visit its stores once a month to undertake test purchase operations. In terms of the Company's record, there had been no requests to review any Premises Licences for any of its 638 stores during the last three years, as well as there being no history of any other problems in its stores in Sheffield. The Company fully acknowledged the fact that all policies and procedures should be in operation in all its stores and, following the failed test purchase operations at Tilford Road, it was shown that such policies and procedures were in operation at that store. Ms Smith stated that the Company accepted that, for whatever reason, the members of staff had failed the three test purchase operations on the dates previously mentioned, but stressed that out of the total of eleven test purchase operations undertaken at the store since June 2012, seven internally and four Police operations, ten had been passed. She referred to the fact that immediately following the failures, four members of staff had attended the Multi-Agency Safeguarding Children Training Course and seven members of staff had attended one of the Premises Licence Holder courses on either 4<sup>th</sup> October or 29<sup>th</sup> November 2012. She referred to the fact that there had been no complaints from residents in terms of the operation of the premises and that 50 local residents had signed a form, nominating the store to become a member of the Responsible Retailer Scheme. She concluded by apologising on behalf of the Company, for the failures, but stressed that the Company had taken more than adequate steps to ensure that such lapses would not happen again, and made reference to the three additional conditions that they would like to be added to the Premises Licence.

4.9 In response to questions from Members of, and Solicitor to, the Sub-

Committee, Nigel Barker stated that when he was appointed Area Manager in June 2012, there were some problems in terms of staff performance, which had resulted in a slight increase in the turnover of staff but, at the present time, all the staff were well-trained and reliable. The store's opening hours were 06:00 to 22:00, with varying shift patterns for the staff, the longest being eight hours. Two of the three members of staff who had failed the test purchase operations were still employed at the store. Whilst the management could not provide an explanation as to why the staff members had failed the test purchase operations, it was stated that it was most likely to be down to a momentary lapse in concentration. After checking the CCTV following the failure on 22<sup>nd</sup> November 2012, it had been noticed that a man had been talking to the staff member and there was a possibility that this had forced her to lose her concentration. David Nash referred to a number of performance issues linked to the Area Manager at that time, but stated that there had been no such problems following the appointment of Nigel Barker in June 2012. Ms Smith confirmed that One Stop was well aware that if premises failed two consecutive test purchase operations, there was a possibility that they could lose their Premises Licence and that the Company accepted that this was a very serious situation. She was not able to comment on the comments made by Julie Hague, Sheffield safeguarding Children Board, specifically the reference to a 'consistent operational improvement not being achieved', but stated that she believed Ms Hague may be referring to the Police evidence provided following the failed test purchase operations. Ms Smith also confirmed that all staff had been trained to operate the Challenge 25 scheme, a risk assessment in respect of children and young people had been undertaken, all new members of staff received induction training prior to selling age-restricted goods, and that the role of the Children's Safeguarder formed part of the DPS' responsibilities, under the terms of the Premises Licence. It was a requirement that all members of staff attended a Personal Licence Holder's course. All bags at the premises had the One Stop logo on them. If the staff operating the tills experienced any problems in terms of the till prompts, the Shift Manager would generally assist them. It was reported that the store was currently operating at a profit and the Voluntary Closure Notice, which was in place from 13<sup>th</sup> to 15<sup>th</sup> July 2012, had a significant adverse effect on sales, and resulted in considerable upset and inconvenience for local customers.

- 4.10 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.11 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.

- 4.12 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.13 RESOLVED: That, in the light of the information contained in the report now submitted, the additional information now circulated and the representations now made, the Sub-Committee:-
- (a) agrees to modify the conditions of the Premises Licence in respect of the premises known as One Stop, 30 Tilford Road, Sheffield, S13 7QP, by the addition of the following conditions:-
    - (i) a Personal Licence Holder will be on duty at all times;
    - (ii) the Premises Licence Holder will carry out refresher training on all age related sales every three months; and
    - (iii) the Premises Licence Holder will carry out 12 independent test purchases at the store every year; and
  - (b) requests that the Police undertake at least three test purchase operations at the premises in the next three months.

(The full reasons for the Sub-Committee's decision and the operating conditions will be included in the written Notice of Determination.)