

**SHEFFIELD CITY COUNCIL**

**Licensing Sub-Committee**

**Meeting held 3 June 2014**

**PRESENT:** Councillors Neale Gibson, Nikki Bond and Denise Reaney

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**1. APPOINTMENT OF CHAIR**

1.1 RESOLVED: That Councillor Neale Gibson be appointed Chair of the meeting.

**2. APOLOGIES FOR ABSENCE**

2.1 No apologies for absence were received. Councillor Adam Hurst attended the meeting as a reserve Member, but was not required to stay.

**3. EXCLUSION OF PUBLIC AND PRESS**

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

**4. DECLARATIONS OF INTEREST**

4.1 There were no declarations of interest.

**5. LICENSING ACT 2003 - STEERS CONVENIENCE STORE, 69 BURNGREAVE ROAD, SHEFFIELD, S3 9DF AND STEERS BEERS, 213 LONDON ROAD, SHEFFIELD, S2 4LJ**

5.1 The Chief Licensing Officer submitted reports to consider applications made by Sheffield City Council Trading Standards, under Section 51 of the Licensing Act 2003, for reviews of the Premises Licences in respect of the premises known as Steers Convenience Store, 69 Burngreave Road, Sheffield, S3 9DF (Ref No. 44/14) and Steers Beers, 213 London Road, Sheffield, S2 4LJ (Ref No. 45/14).

5.2 As both the premises were owned by the same person, and with the approval of all parties present, and the leave of the Chair, the applications were considered together.

5.3 Present at the meeting were Annette Lee (Trading Standards, Applicant), Hardip Singh (Premises Licence Holder, Steers Convenience Store), Paramjit Kaur (Premises Licence Holder, Steers Beers), Michelle Heeley (Barrister, representing Mr Singh and Mrs Kaur), Sergeant Gayle Kirby, PC Chris Wilkinson and Benita Mumby (South Yorkshire Police), Clive Stephenson (Licensing Strategy and Policy Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

- 5.4 Marie-Claire Frankie outlined the procedure which would be followed during the hearing.
- 5.5 Clive Stephenson presented the reports to the Sub-Committee and it was noted that representations had been received from South Yorkshire Police and the Sheffield Safeguarding Children Board in respect of Steers Convenience Store (Ref No. 44/14), and the Sheffield Safeguarding Children Board in respect of Steers Beers (Ref No. 45/14) and were attached at Appendices 'B' and 'C', and 'B' to the reports, respectively.
- 5.6 Annette Lee reported that, in respect of Steers Convenience Store, on 4<sup>th</sup> December 2013, Trading Standards had received a complaint from a member of the public, alleging that counterfeit alcohol was being sold at the shop. On 6<sup>th</sup> December 2013, Officers visited the shop in order to examine the stock, and seized 1 x 1 litre bottle and 2 x 70cl bottles of illicit Glen's vodka. It had since been confirmed by the manufacturer that these products were genuine and intended for export, but at some stage, the bottles had been intercepted, their export labels removed and counterfeit duty paid labels applied. During the same visit, 36 'blunts' (rolled tobacco leaf casing, in the shape of a cigarette, intended to be filled with other smoking materials) were found on sale, and which had inadequate UK health warnings, and were not intended for the UK market. Previously, on 9<sup>th</sup> November 2012, Trading Standards Officers had discovered 17 bottles of illicit alcohol spirits of various types, on sale in the shop, which was then trading as Premier Store. These bottles did not display the UK duty paid stamp. Also during that visit, Officers found 46 packs of chewing tobacco and 56 packs of blunts, which were non-duty paid, and had either incorrect, foreign health warnings, or no warnings at all. They were not intended for the UK market. All these goods were voluntarily forfeited by the licensee and a written warning was issued on 7<sup>th</sup> December 2012. Ms Lee stated that the risks to the public and in particular, to young people, from the sale of illicit alcohol and tobacco, were now well known and in these particular cases, the alcohol was found to be genuine, but non-duty paid. However, the licensee could not have known this, and chose to put his customers' health at risk. In the case of the tobacco products, it should have been obvious to a retailer that the goods were not properly labelled, and did not carry the warnings legally required.
- 5.7 Ms Lee referred to the licensee's previous record with regard to the sale of illicit alcohol, indicating that on 12<sup>th</sup> October 2011, Mr Singh signed a simple caution in respect of counterfeit/contaminated spirits purporting to be Glen's vodka, found on sale at his London Road shop, trading as Steers Beers. Also, on 21<sup>st</sup> June 2012, over 400 bottles of illicit Danoff vodka was seized from the London Road shop. This was subsequently found to be non-duty paid, and Mr Singh and his wife, Mrs Paramjit Kaur, pleaded guilty to an offence under the General Food Regulations 2004, and each received a conditional

discharge and were ordered to pay £250 costs. Mrs Kaur was the business rates payer, the Premises Licence Holder and the Designated Premises Supervisor at the time of the offences. On 13<sup>th</sup> February 2013, Trading Standards Officers seized six bottles of spirits labelled as Smirnoff, and one bottle labelled as Glens from the London Road shop. These were confirmed to be counterfeit and Mr Singh was prosecuted under the Trademarks Act 1994 and the Food Safety Act 1990. He subsequently received a conditional discharge and was ordered to pay costs of £427. Whilst the two incidences relating to the possession for sale of illicit alcohol at the Steers Convenience Store involved relatively small amounts of offending products, it was clear that since July 2011 and December 2013, the licensee has shown a continuing disregard for the law and for the health of his customers. Counterfeit and illicit spirits were known to contain dangerous industrial chemicals and other contaminants, and were made without the quality control measures employed by genuine brand manufacturers. Such products have no genuine batch codes or identification details of the actual manufacturer, which makes traceability of the products impossible. Furthermore, the ABV declared on the label was often inaccurate and as a result, the public's safety was at risk when consuming these products, particularly during binge drinking and even when consumed more responsibly, on a regular basis. Ms Lee circulated a report prepared by Doctor Subhashis Basu, Specialist Registrar, Sheffield Teaching Hospitals' NHS Foundation Trust, detailing the potential health effects of common contaminants found in illicit alcohol.

- 5.8 In respect of Steers Beers, Ms Lee stated that on 11<sup>th</sup> February 2013, Trading Standards received a complaint from a member of the public, stating that he had been made ill after consuming Smirnoff vodka which he had purchased from the shop. A Trading Standards Officer visited the complainant on 13<sup>th</sup> February 2013, in order to examine and test the product, and this showed that the ABV was lower than the 37.5% declared, and that there were several discrepancies with the bottle and label that caused suspicion. Later that day, Officers visited the shop and found a large number of 70cl Smirnoff Vodka in a storeroom. One open case of six bottles was seized on suspicion of being counterfeit, and was subsequently confirmed by the Trademark owner. After analysis, the spirit was found to contain tertiary-butanol, chloroform and isopropanol. The ABV was 34.4% and the spirit could not be called vodka. Ms Lee concluded by stating that in October 2013, all retailers in the City selling alcohol were provided with a leaflet from Trading Standards, providing advice on what to look out for in terms of illicit alcohol.
- 5.9 In response to questions from Members of the Sub-Committee and Michelle Heeley, Ms Lee stated that Mr Singh was responsible for purchasing stock for both stores. In respect of the location of the illicit alcohol, it was found on display at the Steers Convenience Store and in a store room at Steers Beers, where the genuine vodka was found

in one part of the storeroom and the illicit vodka found elsewhere, stored with some wine. The chewing tobacco and blunts were found on display at both stores. As Mr Singh was not purchasing the alcohol from a known, reputable source, he would not have been certain as to what he was purchasing. He should have been aware, through the information on the label, that the vodka was not genuine. Details of the harmful effects of illicit alcohol contaminants were set out in detail in the report prepared by Doctor Subhashis Basu. It was apparent that imposing fines on licensees selling illicit alcohol did not act as an effective deterrent in the light of the number of repeat offences across the City. There was a reasonable chance that Mr Singh was aware that the Danoff vodka, seized by Trading Standards Officers from Steers Beers on 21<sup>st</sup> June 2012, was illicit as the invoice he received in terms of payment for the stock had a private telephone number on it, and indicated that the company name was a 'dealer in household goods and musical instruments'. The invoice in question was circulated at the meeting. There was an expectation that Mr Singh should have checked as to where the product had come from, particularly as there was such a large quantity. Following investigations by Officers, it was discovered that although the registered number of the company was correct, the VAT number on the invoice was invalid. In terms of the blunts, Ms Lee stated that all genuine tobacco products have warnings on the rear of the packaging, in English, and of a standard size, and whilst there was some form of warning on the back of the packaging, it was not in English and therefore, Mr Singh should have been aware that he shouldn't have been selling such a product in this country.

- 5.10 In response to questions from Michelle Heeley, Ms Lee stated that in this kind of trade, a high level of the transactions involved cash. She also accepted that, due to the similar nature of the incidents at both stores, there had only been three incidents, as opposed to six at each store. Ms Lee was not aware of any visits by Trading Standards Officers to the two shops since December 2013. In terms of the stock, it was accepted that there was a considerable number of bottles in each shop and whilst she accepted that the illicit bottle of vodka found in a rear storeroom was probably not intended for sale, it was still on the premises. In terms of the dealers used by Mr Singh, Ms Lee was not able to comment as to whether Trading Standards had any issues with Park House Lane Cash and Carry, Bawtry Road, and indicated that, as far as she was concerned, Bookers Cash and Carry was a legitimate business. In terms of any proposed modifications to the Premises Licences, Ms Lee stated that this would be a decision for the Sub-Committee.
- 5.11 Sergeant Gayle Kirby made representations on behalf of South Yorkshire Police, stating that on 14<sup>th</sup> November and 31<sup>st</sup> December 2013, the Police undertook an operation regarding the underage sale of alcohol in various areas across the City. On both occasions, Police volunteers, both under the age of 18, successfully managed to

purchase alcohol from a member of staff at Steers Beers. As a result, the Police served a Closure Notice on the premises on 7<sup>th</sup> January 2014.

- 5.12 In response to questions from Members of the Sub-Committee and Michelle Heeley, the Police indicated that, whilst they could not confirm what prompted them to undertake the test purchases at Steers Convenience Store, such test purchases were usually undertaken following the receipt of a complaint from a member of the public, or undertaken on a random basis. All volunteers used as part of the test purchases were briefed by the Police prior to entering any premises and in these cases, the two sales were witnessed by plain-clothed Officers. A uniformed Officer then entered the shop and explained the position to the retailer who had made the sales, and provided him with a warning. Following the failed test purchases, the retailer was offered a free place on the Sheffield Safeguarding Children Board's training course. To date, the retailer concerned had not taken up this offer and the Police considered that this, together with the two failed test purchases, showed a lack of regard for the safety of young people. As part of the Police operation, approximately 14 premises were targeted, with three others failing, with the licensees of the premises failing all taking up the offer of a free place on the training course. The Police confirmed it was Carl Sargent who failed the two test purchases. The Police accepted the information provided in terms of the test purchases undertaken in respect of Steers Beers, and which were all passed, together with the certificates attained by members of staff at both premises, relating to their attendance on various courses. In terms of what improvements the Police would like to see at both the premises, they also indicated that this would be up to the Sub-Committee to determine.
- 5.13 A statement from Julie Hague, Sheffield Safeguarding Children Board, was circulated at the meeting, containing separate submissions in respect of each of the two stores. The Sub-Committee noted Ms Hague's apologies for not attending the meeting, due to sickness.
- 5.14 Michelle Heeley put forward the case on behalf of Hardip Singh and Paramjit Kaur, which took the form of a question and answer session with Mr Singh. Mr Singh stated that he purchased the Steer Convenience Store, Burngreave Road, in 2011 and Steers Beers, London Road, in 2008. He confirmed that he was responsible for the day to day management of Steers Convenience Store and that his wife, Paramjit Kaur, was responsible for Steers Beers. Steer Convenience Store opened from 08:00 to 22:00 hours, 7 days a week, and Steers Beers opened from 08:00 to 00:00 hours, Monday to Thursday, 08:00 to 01:00 hours, Friday and Saturday, and 08:00 to 00:00 hours Sundays. There were two to three other members of staff working in each of the two stores. The illicit bottles of Smirnoff vodka were bought, in good faith, from Batley's Cash and Carry, which he had used for some time, and he indicated that he was not aware that it

was illicit alcohol at the time. The fact that Mr Singh purchased hundreds of bottles of vodka at any one time made it more difficult for him to check its legitimacy, and he confirmed that he did not check every bottle in each box on its delivery. Mr Singh stated that since the problems, he had changed suppliers, and now purchased his alcohol from Bookers Cash and Carry, and provided a number of invoices from that Company for purchases made during the past month. There had not been any problems in terms of the alcohol purchased for sale at the two stores, and Trading Standards Officers had no reason to be concerned. Mr Singh appreciated that he shouldn't have purchased any illicit alcohol and indicated that he had no problems with Trading Standards Officers visiting the two stores and checking the stock. He accepted that he did not have efficient and robust systems regarding stock purchasing, at the time, but stressed that he had made a number of improvements, including signage relating to the Challenge 25 and staff training regarding underage sales. In support of this, Mr Singh showed the Sub-Committee a short video of a training session regarding underage sales he had held for staff at the Steers Convenience Store. He also circulated further certificates regarding training courses attended by himself and his store manager, together with Refusal Books for each of the stores. In terms of the age range of customers using the stores, it was stated that customers using Steers Beers tended to be younger, particularly as there was a high concentration of students in that area, whereas customers using the Steers Convenience Store tended to be of variable age. The policies and practices in terms of underage sales were the same in both stores. Mr Singh introduced Mr Sidhu, who was a good friend and who had assisted him following the problems experienced at the stores. Mr Singh confirmed that he had no other employment and that if he was to lose his licences, he had nothing to fall back on, in order to support his family, which comprised his wife and three children. Mr Singh concluded by stating that he would be happy for any additional conditions the Sub-Committee deemed necessary and promised that he would not make any more similar mistakes in the future.

- 5.15 In response to questions from Members of the Sub-Committee, Marie-Claire Frankie and South Yorkshire Police, Mr Singh stated that he purchased the alcohol from Adams simply because they were providing a good offer at the time. It was not uncommon for companies to send people to the shops, offering deals on alcohol. Mr Singh appreciated that there had been a delay in taking action in connection with the incidents, and indicated that he used to offer in-house training for a period, but stopped this practice. Prior to purchasing the shops, Mr Singh had worked in a warehouse and as a delivery driver for a Chinese takeaway. In terms of purchasing alcohol and other stock for his shops, he stated that he had not received any training or advice on this, and that it was natural to opt for the supplier offering the best deal. He confirmed that there were a lot of companies dealing in the sale of alcohol, and that he did not know the background of each of these companies. He stated that he had

purchased the tobacco from a source in London. In terms of the adverse health effects of illicit alcohol, Mr Singh was very apologetic and stressed that he would not sell it again. Mr Singh stated that Mr Sargent had not been able to attend the free training course offered by the Sheffield Safeguarding Children Board on the basis that his grandmother was dying, although he considered that he had the responsibility to let the Board know of this. In terms of the arrangements for the purchase of stock, Mr Singh indicated that he would receive separate invoices for the two different stores. It was not clear as to whether the other members of staff were aware that they should not be selling the blunts and tobacco, but had now all been made aware of their responsibilities in that such products should not be sold in the stores. Mr Singh indicated that he had every faith in Mr Sargent in terms of his roles and responsibilities in the Steers Convenience Store. Although Mr Singh had attended Safeguarding Children training in the past, he had not attended any courses recently, and relied on the information he had attained from attending Pub Watch meetings. Mr Singh was not able to explain, with any clarity, why there were now records in the Refusals Book during the period September 2013 to April 2014, when there had not been any such entries in the Book when Julie Hague visited the Steers Convenience Store on 22<sup>nd</sup> April 2014. He did, however, state that he was not convinced that the Refusals Book circulated at the meeting was the same one that was shown to Ms Hague during her visit. In terms of staff training, Mr Singh stated that he had arranged for staff members to attend the various courses after the incidents had occurred, and that the only details he kept in terms of the attendance on the courses were the certificates. Only himself and Mr Sargent had attended specific Safeguarding Children training, with Mr Singh undertaking in-house training for other staff members. It did not appear that Mr Singh maintained any formal records in terms of staff training, or that he required staff members to sign any documentation to indicate that they had received any form of training. Again, Mr Singh was not able to provide a clear explanation as to why he did not take up the offer of the free Sheffield Safeguarding Children Board training. Mr Singh confirmed that Carl Sargent was still employed at the Steers Convenience Store, and that Mr Sargent had the relevant expertise and experience to deal with underage sales. He confirmed that there were CCTV systems at both stores, the images of which would be able to be viewed by the Police on request. He would also use the CCTV system to watch other members of staff. In terms of his procedures regarding the recruitment of new staff, Mr Singh stated that he was aware of the various forms of ID that they had to produce, and copies were kept of this. In terms of the offer of free training by the Sheffield Safeguarding Children Board, Mr Singh was unable to provide an explanation as to why he did not attend the training course, but he did indicate that he had fixed all the relevant signage to the two stores, as requested by Julie Hague.

5.16 Michelle Heeley introduced Mr Sidhu to the Sub-Committee, as a

friend and adviser to Mr Singh, and asked him a number of questions. Mr Sidhu stated that that he had experience working in convenience stores since 1989, having worked in three different stores. He had approached Mr Singh last week, as a friend, and offered him assistance in terms of all aspects of running a convenience store. He indicated that he would be willing to assist Mr Singh up to the time when Mr Singh felt confident to manage without such assistance. Mr Sidhu concluded by stating that the Challenge 25 posters and the video of Mr Singh providing training on underage sales to members of his staff were his idea.

- 5.17 All parties involved in the hearing were provided with the opportunity of summing up their cases.
- 5.18 RESOLVED: That the public and press and attendees involved in the hearing 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.
- 5.19 Marie-Claire Frankie reported orally, giving legal advice on various aspects of the application.
- 5.20 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 5.21 RESOLVED: That, in the light of the information contained in the report now submitted, the additional information now circulated and the representations now made, in connection with the applications for the review of the Premises Licences made under Section 51 of the Licensing Act 2003, in relation to Steers Convenience Store, 69 Burngreave Road, Sheffield, S3 9DF (Ref No. 44/14) and Steers Beers, 213 London Road, Sheffield, S2 4LJ (Ref No. 45/14), the Sub-Committee agrees to:-
- (a) the removal of the Designated Premises Supervisors in respect of both premises;
  - (b) the amendment of Condition 4 in Annexe 3 – Conditions consistent with the Operating Schedule – by the substitution of the word and figures ‘Challenge 25’ for the words and figures ‘Challenge 21’; and
  - (c) the addition of the following new Conditions:-
    - (i) all alcohol must be purchased from retailers and wholesalers, operating from fixed premises, and who are able to provide a VAT certificate and evidence that duty has been paid;

- (ii) all receipts must be kept and made available to the Police and authorised Officers of the Council upon request;
- (iii) the new Designated Premises Supervisors and Premises Licence Holders must attend the Sheffield Safeguarding Children Board training course before 31<sup>st</sup> December 2014;
- (iv) all staff at both premises must receive training on underage sales before they are authorised to sell alcohol, with records of such training being maintained on the premises, and being made available to the Police and authorised Officers of the Council upon request;
- (v) refresher training must be provided to all members of staff, on a quarterly basis, with written records being maintained on the premises, and made available to the Police and authorised Officers of the Council upon request;
- (vi) one Refusals Book be maintained for each premises, and be made available to the Police and authorised Officers of the Council upon request; and
- (vii) the entire stock at both premises shall be made available for inspection by the Police and authorised Officers of the Council upon request.

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