

## **Record of a Hearing of the Keighley and Shipley Licensing Panel held on Tuesday 21 July 2009 in Committee Room 1, City Hall, Bradford**

---

### **Procedural Items**

#### **DISCLOSURES OF INTEREST**

No disclosures of interest in matters under consideration were received.

#### **INSPECTION OF REPORTS AND BACKGROUND PAPERS**

There were no appeals submitted by the public to review decisions to restrict documents.

### **Hearing**

- 1. Application for a Review of a premises licence for The Old Sun Inn, West Lane, Haworth, Keighley (Document "F")**
- 2. Application for variation of a premises licence for The Old Sun Inn, West Lane, Haworth, Keighley (Document "G")**



2006-2007  
Improving Rural Services  
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



**RECORD OF A HEARING OF AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE FOR THE OLD SUN INN, WEST LANE, HAWORTH, KEIGHLEY (DOCUMENT "F").**

Commenced: 1420  
Adjourned: 1630  
Re-convened: 1705  
Concluded: 1710

**Present:**

**Members of the Panel:**

Keighley and Shipley Licensing Panel: Councillors L'Amie (Chair), McPhee and Pullen.

**Parties to the Hearing:**

**Representing the Applicant for Review:**

Mr Rothwell, representing Reverend Upton

**Representing the Licensee:**

Mr Lucas, Solicitor representing Greene King  
Mr Smith, Operations Manager, Greene King  
Mr Veitch, Licensing Manager, Greene King  
Mr Duke, Tenant  
Mrs Duke, Tenant and Designated Premises Supervisor  
Mr Barnes, Manager, The Old Sun Inn  
Mrs Everett, Residents Association - Witness

**Representing Responsible Authorities:**

Miss Syed, Environmental Health, Bradford Council

**Observers:**

Mrs Wilkinson, local resident  
Mr Riley, West Yorkshire Fire and Rescue Service  
Mr Seekins, West Yorkshire Fire and Rescue Service

**Representations:**

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report.

The review applicant's representative explained that the premises was located near to residents and was the only public house in the village to have a late night licence. The noise and nuisance from the premises disturbed residents and the other public houses in the village added to the problem. He informed the Panel of an instance where noise had emanated from the premises until 0400 on 17 July 2009. In order to alleviate some of the problems the tenants had stated that they would move the smoking area and ask taxis to collect customers from the car park.

A Member questioned whether the police, Environmental Health or the publican had been notified of the complaints. In response the applicant's representative confirmed that they had, however, the situation hadn't improved. The Licensee's legal representative queried who the applicant's representative had spoken to at the premise and when. He was informed that the Manager's wife had been contacted on a number of occasions earlier in the year.

At this point in the proceedings, with the agreement of the applicant's representative and the Licensee's legal representative, the Panel passed the following resolution in order to facilitate consideration of evidence to be presented by the applicant's representative.

#### **Resolved -**

**That, in accordance with paragraph 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the hearing (save for the representatives of the applicant and the representatives of the Licensee) during the showing of a CD-Rom presented as evidence by the applicant. The Panel considered that there was an overriding public interest in protecting the privacy and personal data of third parties who may be shown on the CD-Rom evidence.**

At this point, 1510 hours, the meeting resumed in a public session.

A representative of the Environmental Health Department was present at the meeting and addressed the Panel. It was explained that the premises were located within a residential village location and already benefited from a late night licence. Since February 2009 three local residents had complained in relation to the noise nuisance. The Environmental Health representative indicated that the internal noise could be dealt with through conditions, however, the external noise was more difficult to control and suggested that the noise could be curtailed through the restriction of the opening hours. A reasonable time to cease licensable activities would be 2300 or midnight. It was noted that another public house in the vicinity only had a licence up to 2300 and that customers moved on to The Old Sun Inn causing more disturbance. In conclusion the Environmental Health representative reiterated that the licensable hours were unsuitable for the location and requested that conditions as outlined in their correspondence should be placed on the licence.

In response to questions the representative of the Environmental Health Department reported that:

- After receiving the complaints a visit had been made to the premises and discussions undertaken with the Designated Premises Supervisor and Manager of the premises in order to resolve the concerns raised. No further complaints had been received for a number of weeks following the visit.
- It had been suggested that taxis collected customers from the rear of the premises and that notices be displayed in relation to noise control.
- There had been some improvement following the initial visit to the premises.
- The complaints received related to The Old Sun Inn.
- A meeting had taken place on 9 February 2009 with the tenant and the manager of The Old Sun Inn.
- That the tenant had contacted Environmental Health in March 2009 to ascertain if further complaints had been received. He had been notified that no complaints had been received and that the situation had improved, at that point in time.
- The information provided to the Panel was based upon the complaints received.
- No formal correspondence had been sent to the tenants or Greene King and an

abatement notice had not been issued, however, informal discussions had taken place.

- The Licensee's Licensing Manager had contacted Environmental Health by telephone.
- The complaints had subsided and the objector had been informed that if the noise continued then an evening visit could be made to the premises.

The Licensee's legal representative acknowledged that the main concerns raised were in relation to noise from music, customers leaving, the smoking area and taxis; anti-social behaviour and broken glasses. With regard to the noise from customers leaving and music, he noted that the complaint to Environmental Health had not been formally actioned. The Licensee and tenants had put control procedures in place, the noise outside would be monitored and signs displayed that asked patrons to leave the premises quietly.

The Council's legal officer stated that the current premises licence did not cover regulated entertainment and queried why unlicensed activities had taken place at the premises. In response the Licensee's legal representative explained that the premises had a jukebox and an in-house audio system. Some recorded music was licensable and he raised questions as to whether the music played had been licensable or not. Steps had been taken to ensure the noise level was not excessive and it was unclear as to whether an offence had been committed. The Council's legal officer confirmed that low level background/incidental music was permitted.

The Licensee's representative continued and confirmed that the Licensee's had endeavoured to resolve the complaints and that there had not been any further contact with Environmental Health since February 2009. Residents had been contacted and a petition organised in support of the premises. The petition was tabled and accepted by the Panel, however, the Council's legal officer stated that it was not satisfactory to present it outside the statutory limits and that the Panel would attach limited weight to it. The Licensee's representative then questioned whether the DVD supported the review as the alleged noise from the premises could not be heard. The smoking area was managed and no previous complaints had been received in relation to anti-social behaviour. He informed the Panel that a bottle had been retrieved from the applicant's garden and confirmed that the premises did not sell that particular brand. Steps had been taken to resolve the complaint regarding noise from taxis and all taxi companies had been advised to use the rear car park when collecting or dropping off customers. It was noted that the tenant had been at the premises for 7 years and the current licensing hours had been in operation since 2005. It was also argued that the tenant had also managed another premises in the vicinity for 10 years and had previously dealt with noise issues.

The Licensee's legal representative then questioned the Designated Premises Supervisor, who made the following points:

- That the premises had a 30 cover restaurant and rooms.
- That there had not been any complaints from residents.
- That the smoking area at the rear was patrolled and recorded.
- That the noise levels were monitored at the boundaries.
- That Temporary Events Notices had been previously used, though the events had finished at 0200 and the premises had been cleared by 0300 at the latest.

The licensee's legal representative then called a representative of the Residents Association who made the following comments:

- That the premises was used for resident meetings, a lunch club and bingo.
- That there were double doors and the music could not be heard outside.

- That the Designated Premises Supervisor had stopped customers from smoking at the front of the premises.
- That the smoking area was now at the rear and no drinking was allowed outside.
- That the Designated Premises Supervisor went outside when a taxi had been called to the premises.
- That the premises were frequented by local people.
- That people who lived near to the premises had signed the petition in support.
- That the applicant had been approached and informed that would be a petition to support the premises.
- That a police officer had indicated that he had checked on the premises and not heard any noise outside.

In response to questions, Members were informed of the following:

- That the premises had started to open late on a regular basis from February 2009.
- That there were two signs displayed on the premises; one requesting that patrons were considerate of neighbours and the other stating that drinking was not allowed outside after 2300.
- That drinking was not allowed outside premises after 2300.
- That the request to cease trading and close at midnight from Environmental Health would not be viable for the premises and other public houses in the area closed later. Control measures were also in place to alleviate any problems.
- That there was not a Pub Watch scheme in the village, however, information was circulated between the public houses.

In conclusion the applicant's representative stated that while many public houses had a late licence, however, the hours were not always utilised. The doors to the premises were left open and customers had been seen drinking outside. He reported that he lived very close to the premises and the noise was horrendous. Following the visit by Environmental Health the disturbances had ceased for approximately 3 weeks, but the same problems had now started to re-occur.

In summation the representative from the Environmental Health Department explained that the premises would have been visited if the complaints had continued. The premises had been approached and asked to undertake noise checks. It was requested that the Panel took into consideration the hours and conditions suggested by Environmental Health.

The Licensee's legal representative reiterated that the issues from the complaint raised in February had been resolved and the actions undertaken by the Licensee and the tenants had been outlined to the Panel. There appeared to be no history of evidence to substantiate the request for the review and those local residents that had been contacted had pledged their support for the premises. He explained that it would be detrimental to the Licensee, the tenants and residents if the licensable hours were curtailed. A combination of signage and management controls would be sufficient to cope with the issues raised. The Licensee's legal representative then confirmed that the following conditions from Environmental Health were acceptable:

- "Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.

The licensee is advised to carry out a simple 'sound check' outside the nearest noise sensitive premises by listening to the music, singing or speech coming from the regulated entertainment. If it is clearly audible, then it is likely to be a breach of the condition and steps should be taken to reduce the volume of the noise.

- All external doors and windows to the licensed premises where regulated entertainment is being provided shall remain closed during the course of the entertainment, other than for normal access and egress.
- No external doors or windows to the rear and front of the premises (including fire doors) shall be propped open between the hours of 2200 and 0800 on any given day.
- Amplified and non amplified music, singing or speech associated with the regulated entertainment shall only be carried out inside the premises.”

The Chair of the Panel questioned whether a condition prohibiting the consumption of alcohol outside the premises could be placed on the licence. In response the Licensee’s legal representative confirmed that the premises had self imposed a prohibition on drinking outside the premises after 2300 and could offer this as a condition.

## **Decision**

**That having considered all valid representations made by the parties to the hearing; valid written representations received during the statutory period, the published statement of licensing policy and relevant statutory guidance; the panel finds as follows:**

- 1.1 The consumption of alcohol in the external areas of the licensed premises shall not be allowed after 2200 hours.**
- 1.2 That prominent signs be displayed at all public exits to the premises requesting patrons to be quiet on leaving and entering.**
- 1.3 That no external doors or windows to the licensed premises (including fire doors or patio doors) shall be propped open during the hours of 2200 and 0800 on any given day.**
- 1.4 That the licensee be required to arrange regular meetings with representatives of the local residents (including the review applicants) to discuss and agree steps to resolve areas of concern that may arise from time to time.**

**Reason: In order to ensure that the Licensee takes all steps in their control to limit and takes steps to address issues of noise and disturbance to local residents from patrons using and leaving the premises – Prevention of Crime and Disorder Objective.**

Chair

**Note: This record is subject to approval as a correct record at the next meeting of the Licensing Committee.**

i:\minutes\lpk21Jul

**RECORD OF A HEARING FOR AN APPLICATION FOR VARIATION OF A PREMISES LICENCE FOR THE OLD SUN INN, WEST LANE, HAWORTH, KEIGHLEY (DOCUMENT "G").**

Commenced: 1710  
Adjourned: 1735  
Re-convened: 1800  
Concluded: 1805

**Present:**

**Members of the Panel:**

Keighley and Shipley Licensing Panel: Councillors L'Amie (Chair), McPhee and Pullen.

**Parties to the Hearing:**

**Representing the Applicant:**

Mr Lucas, Solicitor representing Greene King  
Mr Smith, Operations Manager, Greene King  
Mr Veitch, Licensing Manager, Greene King  
Mr Duke, Tenant  
Mrs Duke, Tenant and Designated Premises Supervisor  
Mr Barnes, Manager, The Old Sun Inn

**Representing Responsible Authorities:**

Miss Syed, Environmental Health, Bradford Council

**Observers:**

Mr Rothwell, local resident  
Mrs Wilkinson, local resident  
Mrs Everett, local resident

**Representations:**

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report. It was noted that the applicant had agreed to the four conditions proposed by the Environmental Health Department including the proposal that regulated entertainment would cease at midnight on Friday and Saturdays.

The applicant's legal representative informed the Panel that the applicant no longer accepted the compromise put forward with regard to the hours and requested that the application be considered as submitted, however, the applicant had agreed that the four conditions proposed by Environmental Health could still be placed on the licence. With regard to the hours, the applicant's legal representative stated that a breach of a condition was a criminal offence and that the premises would ensure that noise would not be audible outside. If there were further concerns then work would be undertaken to resolve any issues without the need to reduce the hours. The premises had previously been granted 4

Temporary Event Notices and had not received any complaints. There was a demand for entertainment and the premises had a number of events booked, if the licence was granted.

The Council's legal officer noted that the application requested permission for a wide range of music. The applicant's legal representative confirmed that the style of the public house would not change and that 'live' music had been included in order to allow a single artist or duo to perform. If the application was granted he indicated that they were willing to accept a condition limiting the types of performers permitted. The Council's legal officer then questioned the request for the provision for dancing. It was explained that Haworth and the public houses within the area held 1940s and 1960s events and that dancing took place at these. There was no intention to turn the premises into a nightclub. The applicant's Licensing Manager confirmed that the variation had been submitted in order to include the facilities not covered by the current licence and to provide the tenants with more flexibility. A review could be submitted if noise problems occurred.

The applicant's legal representative confirmed that the premises was a community public house which held events for the community. He stated that the applicant and tenants were aware of their responsibilities and the available controls and were willing to work in conjunction with the Environmental Health Department.

A Member of the Panel questioned why the applicant had retracted the agreement regarding the hours and was informed by the applicant's Licensing Manager that the conditions applicable to music and control measures had been accepted. Discussions in relation to the hours had not progressed and it had been decided that they should be looked at afresh.

A representative of the Environmental Health Department was present at the meeting and reported that complaints had been submitted with regard to the noise emanating from the premises. She stated that noise limiters were not always reliable with regards to live music and that following her visit to the premises the noise audible outside due to doors being open had improved. It was noted that noise issues in relation to access and egress could be resolved under Environmental Health Acts. In order to alleviate the noise matter, the applicant's legal representative offered to cease live music at 23.30 on Friday and Saturday evenings.

## **Decision**

**That having considered all valid representations made by the parties to the hearing; valid written representations received during the statutory period, the published statement of licensing policy and relevant statutory guidance; the panel grants (in part) the application for variation subject to the following conditions:**

### **1.1 That the licensable activities be restricted as follows:**

#### **Live Music**

**Friday and Saturday      0900 to 2330**

#### **Recorded music and the provision of facilities for making music and dancing**

**Friday and Saturday      0900 to 0000**



- 1.2 That prior to use of facilities for making live music, a noise limiting device be fitted in the premises in consultation with the Environmental Protection Department in order to ensure that no amplified sound be audible at the nearest noise sensitive premises.
- 1.3 That noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.
- 1.4 That all outward opening external doors and windows to the licensed premises where regulated entertainment is being provided shall remain closed during the course of the entertainment other than for normal access and egress.
- 1.5 That no external doors or windows to the rear and front of the premises (including fire doors) shall be propped open between the hours of 2200 and 0800 on any given day.
- 1.6 That prominent clear notices shall be displayed to the rear and front exits of the premises requesting customers and staff to respect the needs of local residents and leave the premises quietly.

**Reason:** In order to ensure that the Licensee takes all steps in their control to limit noise and disturbance to local residents from patrons using and leaving the premises and particularly from use of amplification equipment in connection with live music – prevention of noise and disturbance objective.

2. That no dancing or other regulated entertainment of an adult or sexual nature shall take place on the premises.

**Reason:** In order to ensure that no regulated entertainment that may be unsuitable for viewing by children take place in the premises – protection of children from harm objective.

Chair

**Note:** This record is subject to approval as a correct record at the next meeting of the Licensing Committee.