

Report of the Assistant Director Corporate Services to a Hearing before the Keighley/Shipley Area Licensing Panel to be held on 21 July 2009.

F

Subject:

Application for a Review of a Premises Licence for The Old Sun Inn, West Lane, Haworth, Keighley.

Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol.

Suzan Hemingway
Assistant Director Corporate Services
(City Solicitor)

Report Contact: Melanie McGurk
Senior Licensing Officer
Phone: (01274) 431873
E-mail: melanie.mcgurk@bradford.gov.uk

Portfolio:

Corporate

Improvement Committee Area:

**Corporate Improvement Committee
Safer and Stronger Communities**



2006-2007
Improving Rural Services
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



Ward: Worth Valley

1. **Summary**

1.1 **Premises Licence Holder**

Greene King Retailing Ltd.

1.2 **Designated Premises Supervisor**

Susan Duke

A copy of the Licence is included at Appendix 1.

1.3 **The Premises**

The Old Sun Inn, 79 West Lane, Haworth, Keighley

1.4 **The Current Licence**

The premises have a Premises Licence allowing the sale by retail of alcohol for consumption on and off the premises.

Hours of licensable activities:

Sunday to Thursday:	09.00 to 01.00
Friday and Saturday:	09.00 to 02.00
Christmas Eve:	09.00 to 02.30
New Years Eve:	10.00 hours until start of permitted hours the following day
Non Standard Timings:	09.00 to 02.30 on Friday, Saturday, Sunday and Monday of every Statutory Bank Holiday weekend.

1.4 **Steps agreed in the Operating Schedule by the Licensee to address the Licensing Objectives**

a) Prevention of crime and disorder

The existing CCTV System installed at the premises shall be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and available to the Licensing Authority or a Responsible Authority on request.

b) Public Safety

None

c) Prevention of public nuisance

Notices shall be displayed in prominent positions near exists reminding patrons to leave in a quiet and orderly manner.

The Designated Premises Supervisor or his appointed agent will monitor customers leaving the premises and where necessary remind them to leave in a quiet and orderly manner.

d) Protection of children from harm

The Licensee shall enforce an effective recognised “proof of age policy” at all times and ensure appropriate staff training in its operation.

e) General – all four licensing objectives

None

1.5 Conditions Attached after Hearing

Not applicable.

2. Applications Received asking for a Review of the Licence

2.1 Interested Parties

Two local residents have jointly asked for a review of the licence on the grounds of noise nuisance from unlicensed regulated entertainment taking place at the premises and noise, disturbance and anti-social behaviour from patrons using the outdoor areas and leaving the premises late at night. Concern is also raised about bottles and broken glass littering the areas outside the premises.

A copy of the application for review is attached at Appendix 2.

3. Representations

3.1 Responsible Authorities

Environmental Health – A representation has been received from the Environmental Health Department who have received complaints of noise nuisance from unlicensed regulated entertainment at the premises. In order to address the prevention of public nuisance objective and avoid further complaints, the Officer has recommended that should the Licence be varied and regulated entertainment permitted at a future date, then the entertainment should cease at 23.00 hours every day and the following conditions should be placed on the Licence;

1. Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premise shall not be audible at the nearest noise sensitive premises.
2. 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.

3. No external doors or windows to the rear and front of the premises (including fire doors) shall be propped open between the hours of 22.00 and 08.00 on any given day.
4. 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 and area quietly.

The representation from Environmental Health is attached at Appendix 3.

4. Legal Appraisal

4.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

4.2 The Council must also have regard to the Guidance issued by the Department of Culture Media and Sport under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District. Paragraph 5.99 to 5.111 of the Guidance specifically details how applications for review of licences should be determined.

An extract of the Guidance is attached to this report at Appendix 4.

4.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.

4.4 Only "relevant representations" by or expressly on behalf of a defined "interested party" or "responsible authority" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.

4.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

5. Statement of Policy Issues

5.1 The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of crime & disorder), Part 6 (prevention of Public Nuisance).

5.2 The Annexes to the Policy sets out various types of model condition that could be considered.

6. **Legal Options**

6.1 Members may:

- (a) Refuse the application for review of the licence; or
- (b) Decide not to impose any further restrictions on the licence; or
- (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or
- (d) Suspend the licence for a period not exceeding 3 months; or
- (e) Revoke the premises licence; or
- (f) Remove the named Designated Premises Supervisor from the Licence.

6.2 Should the licensee or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court within 21 days of being notified of the decision.

7. **Financial and resource appraisal**

7.1 There are no apparent finance or resource implications.

8. **Other implications**

8.1 **Equal Rights**

There are no apparent equal rights implications.

8.2 **Community safety implications**

There are no apparent community safety implications.

8.3 **Human Rights Act**

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest.

The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the

requirements of the fire authority. If the decision is to refuse then reasons should be given.

9. **Not for publication documents**

9.1 None

10. **The Role of the Panel**

10.1 Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application for review of the premises licence.

11. **Appendices**

1. Premises Licence.
2. Application for Review.
3. Representation from Environmental Health
4. Extract from the Government Guidance.

11. **Background documents**

Licence, representations etc

Licensing Act 2003
Premises Licence

BD/PRA0129

Date Issued: 12/07/2005

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Old Sun Inn

79 West Lane, Haworth, Keighley, West Yorkshire, BD22 8EN.

Telephone 01535 642780

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON and OFF the premises			
	Monday to Thursday	9:00am	1:00am
	Friday and Saturday	9:00am	2:00am
	Sunday	9:00am	1:00am
	Christmas Eve	9:00am	2:30am
	New Years Eve		
	10:00 hours until the start of permitted hours the following day.		
	Seasonal Variations:	9:00am	2:30am
	Friday, Saturday, Sunday and Monday of statutory Bank Holiday weekends.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Thursday	9:00am	1:30am
Friday and Saturday	9:00am	2:30am
Sunday	9:00am	1:30am
Christmas Eve	9:00am	3:00am
New Years Eve		
10:00 hours until the start of permitted hours the following day.		
Seasonal Variations:	9:00am	3:00am
Friday, Saturday, Sunday and Monday of statutory Bank Holiday weekends.		

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

Part 2

NAME (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Greene King Retailing Ltd

Abbot House, Bury St Edmunds, Suffolk, IP33 1QT.
Telephone 01284 763222

Licensing Act 2003 Premises Licence

BD/PRA0129

Date Issued: 12/07/2005

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Greene King Retailing Ltd

5265451

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Susan DUKE

Kings Arms Hotel, 2 Church Street, Haworth, West Yorkshire, BD22 8DR.
Telephone 01535 647302

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. BD/PER0046

Issued by Bradford

ANNEXES

Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under the premises licence;-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annex 2 - Conditions Consistent with Operating Schedule

All four Licensing Objectives:

None

The Prevention of Crime & Disorder:

3. The existing CCTV System installed at the premises shall be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and available to the Licensing Authority or a Responsible Authority on request.

Public Safety:

None

The Prevention of Public Nuisance:

4. Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.
5. The Designated Premises Supervisor or his appointed agent will monitor customers leaving the premises and where necessary remind them to leave in a quiet and orderly manner.

The Protection of Children from Harm:

Licensing Act 2003
Premises Licence

BD/PRA0129

Date Issued: 12/07/2005

ANNEXES continued...

6. The Licensee shall enforce an effective recognised "proof of age policy" at all times and ensure appropriate staff training in its operation.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

Not Applicable.

G:\LEGALSERVICE\LLC&LICENSING\LICENSING\DEV\TEMPLATE\LIC STD\DEV\TEMPLATE\LIC.STD\LICENCE CONDITIONS\OLD SUN
INN - BDPRA0129

Licensing Act 2003 Premises Licence Summary

BD/PRA0129

Date Issued: 12/07/2005

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Old Sun Inn

79 West Lane, Haworth, Keighley, West Yorkshire, BD22 8EN.

Telephone 01535 642780

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Thursday	9:00am	1:00am
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	Sunday	9:00am	1:00am
	Christmas Eve	9:00am	2:30am
	New Years Eve		
	10:00 hours until the start of permitted hours the following day.		
	Seasonal Variations:	9:00am	2:30am
	Friday, Saturday, Sunday and Monday of statutory Bank Holiday weekends.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Thursday	9:00am	1:30am
Friday and Saturday	9:00am	2:30am
Sunday	9:00am	1:30am
Christmas Eve	9:00am	3:00am
New Years Eve		
10:00 hours until the start of permitted hours the following day.		
Seasonal Variations:	9:00am	3:00am
Friday, Saturday, Sunday and Monday of statutory Bank Holiday weekends.		

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND /OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Greene King Retailing Ltd

Abbot House, Bury St Edmunds, Suffolk, IP33 1QT.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Greene King Retailing Ltd

5265451

Licensing Act 2003
Premises Licence Summary

BD/PRA0129

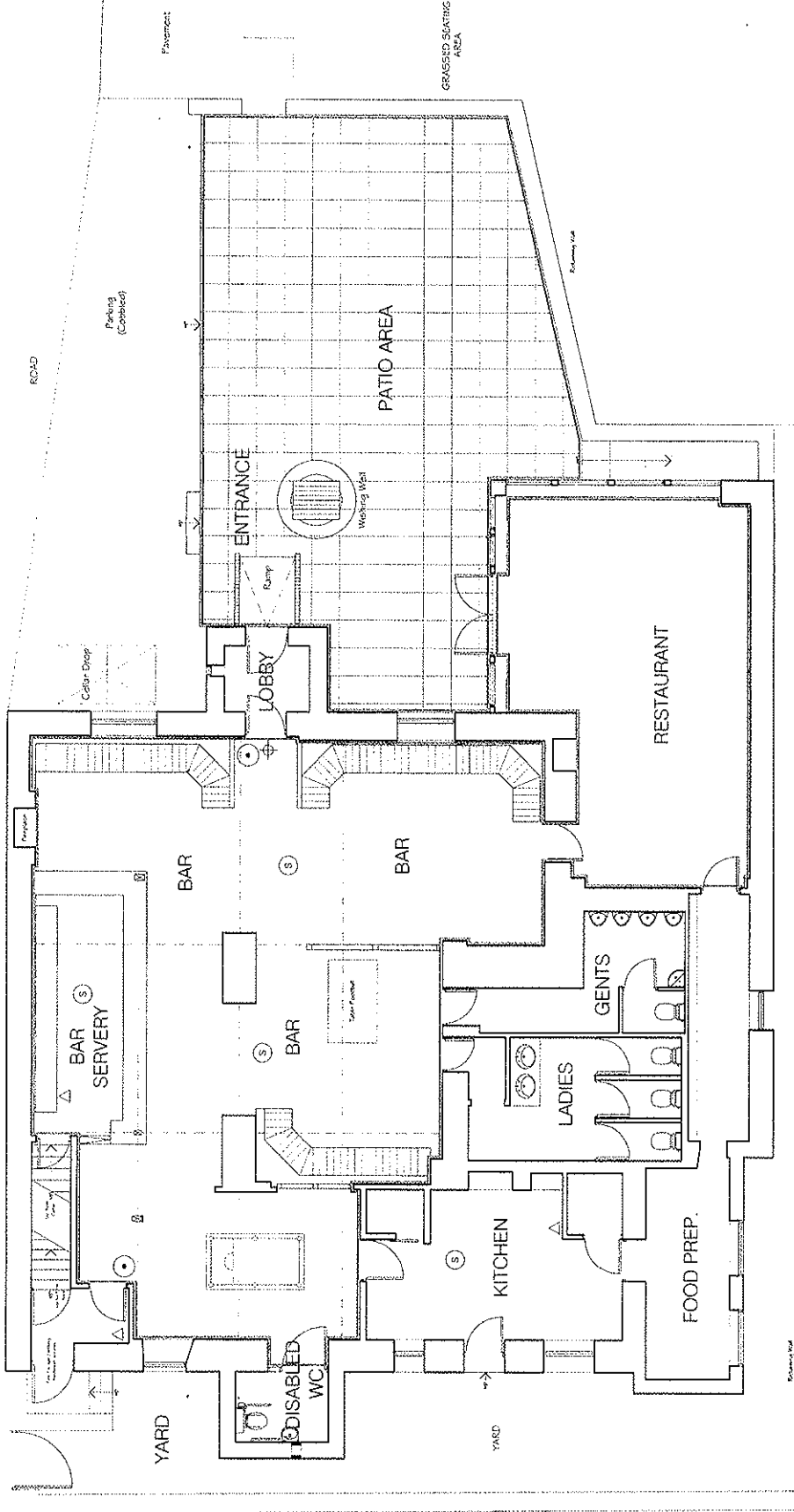
Date Issued: 12/07/2005

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

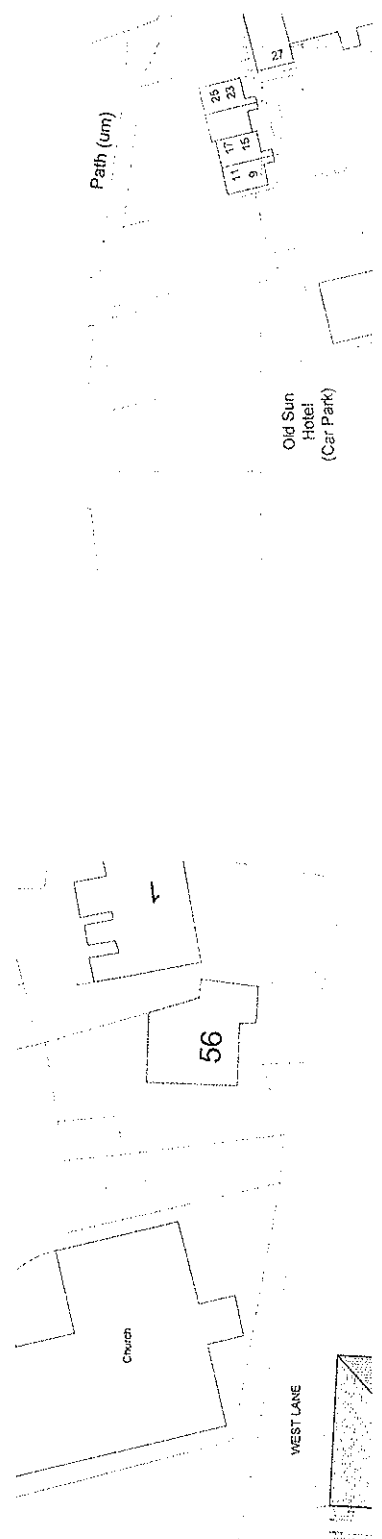
Susan DUKE

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

None



GROUND FLOOR PLAN AS EXISTING
 LICENSING AREA = 151.082 sq. m.
 EXTERNAL LICENSING AREA = 84.396 sq. m.



SYMBOL LEGEND	
[Symbol]	Internally Illuminated Exit Sign
[Symbol]	Non Illuminated Exit Sign
[Symbol]	Emergency Lighting Illuminatio
[Symbol]	Escape Exit with Push Bar to Open sign
[Symbol]	Water Fire Extinguisher
[Symbol]	Carbon Dioxide Fire Extinguisher
[Symbol]	Dry Powder Fire Extinguisher
[Symbol]	Fire Brakes
[Symbol]	Foam Fire Extinguisher
[Symbol]	Half Hour Fire Resisting Door
[Symbol]	One Hour Fire Resisting Door
[Symbol]	Self Closing Device
[Symbol]	Smoke Detector
[Symbol]	Heat Detector
[Symbol]	Spender
[Symbol]	Vision Panel
[Symbol]	Fire Alarm Call Point
[Symbol]	Fire Alarm Sounding
[Symbol]	Fire Alarm Visual Warning
[Symbol]	Fire Door - Keep Shut Sign
[Symbol]	Fire Door - Keep Locked Sign
[Symbol]	Fire Door - No Open Sign
[Symbol]	Licensed Area
[Symbol]	Public Entertainment Area

Licensing Team, Room 402, City Hall, Bradford, BD1 1HY

Application for a review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

We (insert name(s) of applicant) apply for the review of a premises licence under section 51/apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description OLD SUN HOTEL, WEST LANE, HAWORTH,	
Post town KEIGHLEY	Post code (if known) BD22 8EL

Name of premises licence holder or club holding club premises certificate (if known) GREEN KING &
--

Number of premises licence or club premises certificate (if known) BD/PRA0129 &
--

Part 2 – Applicant details

08 JUN 2008

I am

Please tick ✓

- | | | |
|---|-------------------------------------|----------------------------------|
| 1) An interested party: | | |
| a) A person living in the vicinity of the premises | <input checked="" type="checkbox"/> | please complete (A) or (B) below |
| b) A body representing persons living in the vicinity of the premises | <input checked="" type="checkbox"/> | please complete (A) or (B) below |
| c) A person involved in business in the vicinity of the premises | <input type="checkbox"/> | please complete (A) or (B) below |
| d) A body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> | please complete (A) or (B) below |
| 2) A responsible authority | <input type="checkbox"/> | please complete (C) below |
| 3) A member of the club to which this application relates | <input type="checkbox"/> | please complete (A) below |

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title (for example, Rev)

Surname First names

I am over 18 years old or over

Please tick

Current address

WEST LANE,
HAWORTH,

Post Town

KEIGHLEY

Postcode

BD 22 8EL

Daytime contact telephone number

Email address (optional)

(B) DETAILS OF OTHER APPLICANT

Name	
Address	West Lane Haworth BD 22 8EN
Telephone number (if any)	
E-mail (optional)	—

DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name
Address
Telephone number (if any)
E-mail (optional)

This application to review relates to the following licensing objectives(s)

Please tick one or more boxes ✓

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

I BELIEVE THAT IT IS WHOLELY INAPPROPRIATE TO GIVE A 2O'CLOCK LICENCE TO THE SUN HOTEL, WHICH IS SITUATED ONLY 30 YDS TO SENIOR CITIZENS FLATS. WE HAVE NOISE BOOMING OUT FROM LOUD SPEAKERS WITH DOORS AND WINDOWS OPEN. ALSO SMOKERS OUTSIDE SHOUTING AND SINGING. MOST OF THE CUSTOMERS HAVE HAD ENOUGH BEFORE THEY REACH THE SUN AS ITS THE ONLY HAWORTH PUB WITH THE 2O'CLOCK LICENCE. THIS NOISE AT WEEKENDS GOES ON TIL 3pm SOMETIMES, AND 16TH MARCH SAT. IT WAS 6. AM SOME SATURDAYS THE POLICE WERE CALLED TO FIGHTING ON THE GREEN OUTSIDE THE FLATS. TAXIS ARE ALSO A PROBLEM WITH THEIR HORNS BLARING.

MRS ALIA SYED FROM THE ENVIRONMENT ^{HEALTH} AGENCY HAS CALLED IN THE PUB AND WARNED THEM ABOUT THE VOLUME OF NOISE AND NOT HAVING A MUSIC LICENCE.

BEFORE THEY MOVED AWAY, BECAUSE OF THE NOISE ONE YOUNG COUPLE TOLD ME PERSONALLY THAT WHEN THEY COMPLAINED TO THE DRUNKEN CUSTOMERS THEY WERE THREATENED WITH VIOLENCE.

THE GREEN OUTSIDE THE PUB AND FLATS IS ALWAYS LITTERED WITH BOTTLES AND BROKEN GLASS.

WE HAVE TO GO TO SLEEP WITH ALL WINDOWS CLOSED ESPECIALLY ON HOT NIGHTS, BECAUSE THIS IS WHEN THE PUB DOORS ARE OPEN AND THE NOISE IS LOUDEST.

Please provide as much information as possible to support the application (please read guidance note 2)

DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name
Address
Telephone number (if any)
E-mail (optional)

This application to review relates to the following licensing objectives(s)

Please tick one or more boxes ✓

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

As the minister of a church located in the very near vicinity of the Old Sun Hotel I have pastoral concerns for many of the elderly residents who also live in or around the location. A number of these have made me aware of the excessive noise and commotion that occurs as drinkers come to and leave the pub.

Also, as keeper of the churchyard grounds, my own private garden and an allotment I have noticed a great increase in beer glasses (whole and smashed) and general broken glass on the street over the last six months.

Overall, I believe it to be inappropriate for the Old Sun Hotel to be offering extended

Please provide as much information as possible to support the application (please read guidance note 2)

drinking hours in what is thought to be a residential area predominately owned / occupied by elderly people.

finally, around six years ago, we decided that the noise from the Old Sun's karaoke nights (before the current manager arrived) was too loud and moved bedroom to the rear of our house and have now fitted double glazing.

West Lane
Haworth

OLD SUN HOTEL HAWORTH

I wish to complain about the late licence at the Old Sun Hotel

- It has become noisy especially at the weekends making it difficult to sleep.
- Some of the noise is loud music
- Other noise comes from people shouting as they leave the Old Sun
- The surrounding area is littered with broken glass on a regular basis.
- Immediately outside the Old Sun broken glass is left for days.
- Bottles and glasses are thrown into nearby drives and gardens.
- This quiet sleepy area is not a good place for a late licence
- The Old Sun Hotel is next to Heathcliffe, and close to Redman Garth which are sheltered housing for the elderly.

I have lived in my house for 40 years and enjoyed the quiet semi rural area on the edge of the village, I know I came to live close to a pub and I have enjoyed that too, but I do not enjoy living near a night club which is what it has become.

West Lane
HAWORTH
BD22 8EN

18 JUL 2009



West Lane
Haworth
Keighley
BD22 8EN

Mrs. M. McGurk
Dept. of Legal Democratic Services
Licensing Team
Bradford

3rd June 2009

Dear Mrs. McGurk,

Re: Change to licensing laws/status
The Sun pub – West Lane, Haworth

It has recently come to my attention that the above premises has applied for a change to its existing licensing hours/status. The pub has already had an extension to its licensing hours, which has had serious consequences for the local residents (detailed below). As a result, I strongly oppose any further change to its existing hours.

Firstly, as a local resident living nearby, there has as been a dramatic increase in noise disrupting the residential neighbourhood. Any further change would surely result in further noise pollution, which is unacceptable, particularly when there are two old-people's housing associations directly opposite.

Secondly, there has been a marked increase in litter; particularly smashed beer bottles along the pavements on West Lane. Surely you must agree that this is hazardous to children living in the vicinity.

Another major concern is prevention of public nuisance. I was recently driving home at 2.00am on Sunday 29th March when I had to swerve in the road, to avoid two drunken men who had just left the Sun pub, having a brawl. Surely any further change will result in an increase in such incidents.

To conclude, whilst most residents are happy to live near a rural pub, I can assure you that we are very concerned about any further extension to its drinking hours /any change in its status to a 'nightclub'.

Yours sincerely

11 0 35 2009

Please tick ✓

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

<input type="checkbox"/>
<input type="checkbox"/>

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent. (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date 3-6-09 3-6-09

Capacity RESIDENTS

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Notes for guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Information on the Licensing Act 2003 is available on the website of the Department of Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment) or from Bradford Metropolitan District Council (<http://www.bradford.gov.uk/council/licensing>), your local licensing authority.

Please tick ✓

Have you made an application for review relating to this premises before?

If yes please state the date of that application

Day	Month	Year

If you have made representations before relating to this premises please state what they were and when you made them

Melanie McGurk

From: Aliah Syed
Sent: 26 June 2009 18:56
To: Melanie McGurk; Tracy McLuckie
Cc: Paul Binks
Subject: Premises Licence Review for The Old Sun Inn, 79 West Lane, Haworth

Hello Melanie,

RE : Premises Licence Review for The Old Sun Inn, 79 West Lane, Haworth

Thank you for consulting this Department in respect of the above proposed Premises Licence review for The Old Sun Inn Public House, 79 West Lane in Haworth.

The premises are located in the residential village location of Howarth. The current Licensed opening hours for The Old Sun extend in to the early hours of the morning, which are 09.00 hrs to 02.00 hrs.

I can confirm complaints from three different residents have been received by Environmental Health since February 2009. The residents live on West Lane and North Street, which are in close proximity to the Public House. I understand this has resulted in the Licensing Department being contacted and a Licence Review evoked.

I can clarify that the complaints Environmental Health have received to date, relate to noise disturbance from audible entertainment / music from the premises, noisy customers who are said to be shouting, fighting or using profanity when outside for example in the smoking areas or waiting for taxis to arrive and also late night comings and goings from customers leaving another public house on the Haworth main street (which closes at 23.00 hrs), to walk up to The Old Sun Inn where they can continue drinking until 2am.

Complaints have been made that the noise disturbances associated with The Old Sun Inn can continue up to 2.45 am.

On receipt of these complaints I contacted the Landlord Mr Jukes and the manageress of the premises to discuss the complaints and ways in which to minimise the possibility of causing a noise nuisance to residents. I have asked them to check sound levels externally when entertainment and music is being played on the premises and to display notices and of course verbally request customers to leave the premises quietly, which Mr Jukes said they would do. The manageress also agreed to ensure that the taxi pick ups were done to the rear entrance of the building to try and reduce the noise levels reaching the dwellings at the front of the premises.

I notified Licensing Section of the type of entertainment on the premises and I was advised that the entertainment being provided was regulated and would required a licence.

In order to mitigate potential problems from late night and early morning disturbances and to protect the aural amenity of the area, I would strongly recommend a curtailment in the current early morning opening hours.

My recommendations therefore are :

- 1. Opening hours and sale of alcohol should be restricted to no later than midnight on any given day.**
- 2. 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 and area quietly.**

I understand currently the licence is not authorised in respect of regulated entertainment however, if a licence

29/06/2009

is granted in the future I would also recommend the following conditions :

3. All regulated entertainment should be restricted to no later than 23.00 hrs on any given day for these premises.

4. 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.

5. 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.

6. No external doors or windows to the rear and front of the premises (including fire doors) shall be propped open between the hours of 22.00 and 08.00 on any given day.

7. Amplified and non-amplified music, singing or speech associated with the regulated entertainment shall only be carried out inside the premises.

I trust this is the information you require. Please do not hesitate to contact me should you require further information.

Kind Regards,

Aliah Syed

Environmental Health Officer
ShIPLEY Pollution Team
01274-434070

29/06/2009

11. Reviews

THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.4 Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.5 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 11.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 11.9 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

11.10 Further information for interested parties about the review process is available in "Guidance for interested parties: applying for a review" which can be found on the DCMS website.

REPETITIOUS REPRESENTATIONS

11.11 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

11.12 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

11.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.

11.14 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing

objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.
- 11.23 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.26 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.28 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review: The determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within 10 working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than 5 working days before the first hearing day. There must be five clear working days between the giving of the notice and the start of the hearing.