

Record of a Hearing of the Keighley and Shipley Licensing Panel held on Monday 16 May 2011 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.

Hearings

**Application for a premises licence for Le Bistrot Pierre, Brook Street, Ilkley
(Document "E")**

**Application for a premises licence for Wm Morrison's Supermarkets, Bolton Bridge,
Ilkley (Document "F")**



**RECORD OF A HEARING FOR AN APPLICATION FOR A PREMISES LICENCE FOR
LE BISTROT PIERRE, BROOK STREET, ILKLEY**

Commenced: 1310
Adjourned: 1405
Re-convened: 1415
Concluded: 1420

Present:

Members of the Panel:

Keighley and Shipley Licensing Panel: Councillors Amin (Chair), Pullen and Walls

Parties to the Hearing:

Representing the Applicant:

Mrs Carter, Legal Representative
Mr R Beecham, Applicant
Mr M Barbour, Designated Premises Supervisor
Mr Jenkinson, Local businessman and resident

Representing Interested Parties:

Councillor B M Smith

Representations:

The licensing officer in attendance summarised the background to the application and valid representations received as set out in the report. The Council's Legal Adviser submitted a letter which had been received since the production of the report from a person who had submitted representations to the application. The letter reiterated his original representations; explained he would be unable to attend the meeting and confirmed that he was happy for the meeting to be held in his absence.

The applicant's legal representative reported that the application was to return to use a refurbished building which was over 150 years old and of historical significance to the local area. The premises had originally opened in 1860 as a hotel. The background to the history of the building was provided. The premises had been unoccupied for the previous 12 months and it was maintained that the refurbishment of the venue was a positive development for the area.

The applicant's previous business experience was explained and operating details of seven other successful licensed bistro's which he operated were provided. The proposal under discussion would contain 11 hotel rooms and an English themed pub serving traditional real ale. It was believed that the premises would not attract a very young clientele; would provide fine wine and dining at affordable prices and would attract families in the area. Menus and wine lists from the applicant's other venues were provided as an example of the type of operation proposed. Photographs of premises in Sheffield, Leicester and Stratford upon Avon were also circulated. It was proposed that the Designated Premises Supervisor from the Stratford venue would transfer to the Ilkley premises.

It was stressed that the licensing objectives had been properly addressed in the operating schedule and that there had been no representations from responsible authorities. It was claimed that the representations received did not relate to the licensing objectives and their relevance was questioned. Guidance contained in the Licensing Act 2003 which indicated that irrelevant representations should be classed as "frivolous and vexatious" was referred to.

In response the Council's Legal Advisor acknowledged that the need for a new restaurant, referred to in representations received, may not be relevant but that representations regarding public nuisance related to the licensing objectives. He explained that licensing panel's discretion would be used and consideration of differing elements of the representations would be given appropriate weight.

The applicant's legal representative referred to a representation received from a competing business and suggested it was a thinly disguised trade objection. The hours of operation for other licenses premises were compared to those being requested and it was claimed that other premises were operating in excess of the hours being requested for Le Bistrot Pierre.

In response to the applicant's submissions Members questioned if the premises had an external area for customers to consume drinks; if the applicant would be happy to restrict the hours applied for in the external areas and the nature of the entertainment which was proposed at the venue.

The applicant explained the location and proximity of the restaurant to hotel rooms and an outside court area. He confirmed that he would be happy to restrict the hours of operation in that location as he did not want to disturb guests staying in the rooms. It was explained that the real ale pub would have recorded music playing in the background and no objections would be made to restrictions on live music. The operating hours would reflect local demand. Photographs and a location plan showing the proximity of local residents who had submitted representations were provided.

In summary the applicant's legal representative maintained there was no evidence to suppose that previous noise disturbance in the area would arise from the application.

Decision

That, having considered all the 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 the application subject to the following condition:

That no amplified live music be played after 2230 hours.

Reason: To prevent noise and disturbance to residents in the vicinity of the premises – Public Nuisance Objective.

Chair

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

**APPLICATION FOR A PREMISES LICENCE FOR WM MORRISON
SUPERMARKETS, BOLTON BRIDGE, ILKLEY**

Ilkley

Commenced: 1420
Adjourned: 1515
Re-convened: 1535
Concluded: 1540

Present:

Members of the Panel:

Keighley and Shipley Licensing Panel: Councillors Amin (Chair), Pullen and Walls

Parties to the Hearing:

Representing the Applicant:

Ms C Johnston, Legal representative
Ms K Nichols, Licensing Manager (applicant)
Mr C Williams, Operations Manager

Representing Interested Parties:

Councillor B M Smith
Mr J Cohen, Legal representative for Ms A Scully
Mr Inglehearn – local resident
Mr Meyrick - local resident

Representations:

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

The applicant's legal representative explained that the hours of operation sought were standard hours operated at over 350 Wm Morrison's stores in the country. It was believed a precedent had been set in the area with the granting of hours of operation from 0600 to 2400 at the local Tesco store.

It was explained that the proposal was for a small 'convenience' store located in a residential area to provide a service when other larger supermarkets were closed. It would be much smaller in size than other supermarkets. It was maintained that the company had much experience of operating in residential areas and it was in their own interests that it should continue to do so. Examples where it was claimed stores were operating in harmony with local residents were provided. Involvement in local community events and charities was reported and included the 'Lets Grow' campaign provided in schools to promote fresh food and healthy eating. It was anticipated that the store would attract 10,000 customers per week. The operators had vast experience and measures in place to promote the licensing objectives. Details of those measures were outlined in the operating schedule and included Task 25/Challenge 25, till prompts and regular training and refresher training at appropriate intervals. In response to questions about a prosecution for under age sales to a 15 year old girl it was explained that the sales assistant's training had been checked and found to be up to date. The offence had arisen because of human error.

It was maintained that the nine representations received were pure speculation and there was no evidence to suggest that concerns would materialise.

The legal representative for Ms Scully questioned/raised a number of issues as follows:-

- Would staff arrive for work at 0500 hours?
- Youths could congregate, and anti social behaviour could arise, in the area.
- Would the premises operate a CCTV system?
- Refuse from goods purchased on the premises would be dumped away from the premises as the store was located on a well used walk along Riverside Gardens.
- How far would the stores responsibility to clear rubbish extend from the premises?
- The store could brand their goods to ensure litter could be attributed to the store.
- It was not possible to claim that the store would be responsibly managed and supervised as it had not yet opened.

The applicant's legal representative provided the following response:-

- Staff would arrive at 0500 hours as they did in 350 others stores. The store would open even if the licence to sell alcohol was not granted.
- The entrance to the store would be fully enclosed and the area would be well managed and monitored. The congregation of young people or anti social behaviour would not be allowed.
- CCTV would be installed on the premises and would cover the internal and areas of the store.
- It would be unrealistic for the store to brand their goods to enable litter to be traced. There was no evidence that the applicant store or any other store operations had resulted in substantial litter to the detriment of local residents.
- The applicant company had many standard procedures in place which they would operate at the new store in Ilkley.

In response to statements about litter being dropped away from the location of the premises the Council's legal advisor reported that the store could only be responsible for activities in the immediate vicinity.

Ms Scully's legal representative addressed the meeting and he explained that his client lived on a direct route to Riverside Gardens. His client was concerned that the sale of alcohol would lead to under age sales and youths congregating in the area. He believed a precedent had been set for stores to brand their alcohol containers and referred to a Tesco store in Nottingham. He maintained that delivery and collection times at the store should be arranged to ensure no nuisance was caused to residents and that external lighting should not be intrusive.

The sale of alcohol in the proximity of a school was questioned and a view expressed that cars would park on the highway if they could not access a car park. The Council's legal adviser explained that parking issues did not relate to the licensing objectives.

In response Members questioned the age of the school children who would be in the vicinity of the store and were advised that the school was for primary age pupils.

A Local Ward Councillor addressed the meeting to report the concern of residents because of previous problems experienced in the Riverside Gardens area from underage drinking and noise nuisance. He explained that The Lawns and Lister Court areas were occupied by elderly people and that there had been a history of customers drinking whilst walking between pubs in the area.

A local resident of The Lawns explained that all residents were over 70 years of age and two of them were aged 95. He believed they were a vulnerable community and was concerned that the footpath to the new store was located close to their car parking space. It was requested that the hours of operation be reduced.

A resident of Lister Street outlined previous problems experienced with youths congregating in the area and under age drinking.

In summary Ms Scully's legal representative maintained that although the hours of operation were reported as being acceptable in other areas he did not believe that would be the case in Ilkley. He requested that verbal assurances that the store would clear up litter and monitor the area should be formalised into conditions of the licence.

The applicant's legal representative maintained that only a small number of representations had been received and these were all based on speculation. She reiterated that the applicant company was a very experienced retailer and there was no evidence that the applicant would operate irresponsibly in the new store. It was stressed that the decision of Members must be based on evidence and not on speculation. Reference was made to previous case law in the Daniel Thwaites case.

Decision –

That, having considered all the 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 the application subject to the following condition:

A CCTV system (with satisfactory internal and external coverage) be installed at the premises and 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.

Reason: In order to ensure that the Licensee takes all steps in their control to monitor compliance with the law; to prevent the sale of age restricted products to underage customers and avert unruly behaviour in the vicinity of the premises– Prevention of Crime and Disorder Objective and 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.

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THESE RECORDS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER