

Record of a Hearing of the Keighley and Shipley Licensing Panel held on Monday 13 June 2011 in the Saville Room, 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, 79 West Lane, Haworth (Document "A")



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RECORD OF A HEARING FOR A REVIEW OF A PREMISES LICENCE FOR THE OLD SUN INN, 79 WEST LANE, HAWORTH (DOCUMENT "A").

Commenced: 1315
Adjourned: 1500
Re-convened: 1530
Adjourned: 1610
Re-convened: 1630
Concluded: 1635

Present:

Members of the Panel:

Keighley and Shipley Licensing Panel: Councillors Ruding (Chair), Amin and L'Amie.

Parties to the Hearing:

Representing the Interested Party Applicant for Review:

Councillor Lee – Review Applicant
Inspector Croasdale, West Yorkshire Police - Witness
Parish Councillor Huxley – Witness
Mr Laycock, Local Resident – Witness
Mr Rothwell, Local Resident – Witness
Reverend Upton - Witness

Representing the Licensee:

Mr Lucas, Solicitor representing the Licensee
Mr Robinson, Business Development Manager, Greene King Retailing Ltd – Witness
Mr Smith, Operations Manager, Greene King Retailing Ltd – Witness
Mr Veitch, Licensing Manager, Greene King Retailing Ltd - Witness
Mr Duke, Managing Director – Witness
Mrs Duke, Designated Premises Supervisor – Witness
Mr Andrews, Joint Manager of premises - Witness
Mrs Andrews, Joint Manager of premises – Witness
Mrs Carr, Local Resident – Witness
Miss Fawcett, Local Resident - Witness

Observers:

Councillor Miller
PC Dawson, West Yorkshire Police
Mr Cunningham, Local Resident
Mrs Davies, Local Resident
Mr Kenyon, Local Resident
Mrs Wilkinson, 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 Review applicant explained that she was the 'Seniors Champion' for the area and had been asked to look into the problems being experienced by residents in relation to The Old Sun Inn. It was explained that a meeting had taken place at the premises where the issues of the late night weekend licence and resulting anti-social behaviour had been amicably discussed. The Managing Director and Designated Premises Supervisor (DPS) had been requested to monitor the situation, however, the anti-social behaviour had continued. The Review applicant indicated that she believed that customers who frequented another premises owned by the Managing Director and DPS were being informed of the late opening hours at The Old Sun Inn. It was noted that the residents in the flats and the vicarage were very close to the premises. The Review applicant confirmed that she had visited residents and witnessed the noise from the premises, which she believed was being used as a 'nightclub' by patrons. The quality of life for local residents was important and it was being destroyed at weekends due to the noise and disturbance from the premises. The Review applicant stated that the owners wanted to revert the premises to a family pub, therefore they did not require the long licensing hours. The police and the Council's Environmental Health Unit had been contacted in relation to the issues emanating from the premises and local residents had complained, but were now frightened of retributions. The Review applicant stated that the premise was a lovely public house, but the residents did not want late night drinking.

The Review applicant called a local resident as a witness, who made the following comments:

- He lived opposite the premises.
- There was anti-social behaviour in the area.
- He could not live in his home on a weekend.
- The people who stated they were not disturbed by the noise must either frequent the premises or not reside on West Lane.

The Parish Councillor was called as a witness and stated the following points:

- Complaints in relation to anti-social behaviour, noise pollution and fear of crime had been reported to the Parish Council.
- He had visited the premises and the noise had been under control at that time.
- He had made further visits later on a Friday and Saturday night and a great deal of noise had emanated from the premises.
- The issue had been discussed by the Parish Council and a letter sent to the premises in May 2011.
- The Parish Council was in support of local residents.
- The Parish Council was concerned in relation to the late licence.

The Review Applicant called the representative of West Yorkshire Police (WYP) as a witness and raised the following issues:

- The role of the police was to listen to the community.
- The issue had been brought to his attention at a Neighbourhood Forum in June 2010 and he had passed the information onto the police's licensing officer.
- A Pubwatch scheme had been established in the area which was chaired by the son of the Managing Director and Designated Premises Supervisor (DPS) of the premises in question.
- Minor problems had still occurred so a meeting had been convened on 16 December 2010 where an Action Plan had been agreed.
- The agreed actions included the presence of two Security Industry Authority (SIA) registered door staff on a Friday and Saturday evening from 7 January 2011. This had resulted in some noise reduction and had to be reviewed in 4 months time.

- Greene King's Business Development Manager had contacted the police on 22 December 2010 in order to discuss the Action Plan.
- Complaints were received from residents with regards to the noise from the premises over the Christmas period.
- The Action Plan in relation to the SIA registered door staff attendance was amended on 13 January 2011.
- Greene King had indicated that they wanted to reduce the hours back to midnight from March 2011, however, this had not been done.
- The new managers of the premises had circulated leaflets advertising the late licence on Friday and Saturday evenings.
- Information had been ascertained that the premise was highly profitable between the hours of midnight and 0200 hours and therefore the hours of the licence would not be reduced as previously stated.
- Anti-social behaviour was still occurring at the premises.
- The Action Plan had curtailed the anti-social behaviour but the noise and nuisance was still a problem.
- The best way forward to allow the residents peace and quiet was to reduce the hours the premises were open.
- The Action Plan points regarding SIA registered door staff should be included as conditions on the licence.

The Reverend of the local church made the following comments as a witness:

- He had resided opposite the premises for 10 years.
- The issue of noise and general anxiety was prevalent in the community.
- His daughter had been awoken by the noise from the premises and stated that she did not see why residents had to put up with the disturbance.

The Review applicant called another local resident as a witness, who raised the following concerns:

- He had lived in the vicinity for 30 years.
- He was frequently awoken in the early hours of the morning.
- He expected noise and disturbance on Friday and Saturday night.
- Different public houses were now being frequented in Haworth and the residents of West Lane and the vicinity were now experiencing noise and disturbance.

In response to questions from the Panel and the Council's legal officer the Review applicant and witnesses confirmed that:

- During the meeting held on 13 January 2011, Greene King's Business Development Manager had indicated that it was expensive to employ SIA registered door staff. The underlying theme of the discussion had been that the premise was to be re-positioned as 'family friendly' from March 2011. The offer to reduce the licensing hours had been a proposal for the future and the Licensees had been informed that the Action Plan would remain until the position altered.
- A minimal number of complaints had been received by the police from June 2010 to present. The issues regarding violence had declined but the anti-social behaviour and noise disturbance was still prevalent.
- The Council's Environmental Health Unit had been informed and had visited the premises. They had tried to have the music turned off but the premises had changed to playing music DVDs instead. Even though SIA registered door staff were employed the issues were still ongoing. The premises appeared to make a great deal of money on a weekend and did not want to lose the licensable hours.

- The Council's Environmental Health Unit had become involved and had requested that all windows and doors had to be closed.
- The main areas of concern were in relation to the general anti-social behaviour of the patrons and the 0200 hours closing time.
- Drunk and disorderly offences were still prevalent and there had been occasions where the police had been asked to attend. Some customers of the premises had been ordered to leave within the last few months.

The Licensee's representative then questioned the Review applicant and witnesses and was informed that:

- A complaint had been made to the premises in relation to the noise on Christmas Eve.
- The level of noise from music had been more noticeable in the past few weeks but the main concern was when the premises closed and the disruptions to residents in the early hours.
- The Pubwatch scheme was still active and had been a positive move. The scheme and Action Plan had jointly driven down the number of incidents and the issue was now mainly in relation to public nuisance.
- There were concerns as to whether the proposal to reduce the hours was genuine.
- Some of the issues had been eliminated and the police had not applied for the Review or made a representation.
- The main concerns were in relation to noise and disturbance. Serious incidents had been curtailed, but they could still occur.
- The police would welcome a reduction in the licensable hours.
- The majority of the noise disturbance occurred when patrons were in the smoking area, walking in and out of the premises and when waiting for taxis.
- Anti-social behaviour could be removed from West Lane if the premises closed at a reasonable hour as the problems occurred due to people frequenting the premises late at night. The transformation of the premises to a family pub would be welcomed.

The Licensee's representative then addressed the Panel and confirmed that he had spoken to the Review applicant and the representative of WYP in order to try and resolve the issues raised, which had been carefully considered by the Licensee. He explained that the premises was a long established public house and owned by the Licensee, however, the licensable activities were provided by the tenants. The Managing Director and DPS of the premises had been there for approximately 10 years and had over 30 years experience in the trade. They took their responsibilities very seriously and the DPS was present in the premises every day. He confirmed that a meeting had taken place and some issues had been resolved, however, the noise concerns had continued so meetings with the police had been convened and an Action Plan agreed. There had been no attempt to renege on the agreement with the police.

The Licensee's representative pointed out an email from the Business Development Manager on 17 February 2011 which identified that unannounced visits were made to the premises and that steps were being taken to resolve the issues raised. He explained that the variation to the licensable hours had not been progressed as the Business Development Manager had wanted to consult with the police and unfortunately this had not happened. A new manager had been appointed to the premises on 18 March 2011 and resided there with his family. A scheme to refurbish the premises had been completed in March 2011 and was the idea behind the re-branding. It was noted that an officer from the Council's Environmental Health Unit had visited the premises on 18 May 2011 and a noise limiter had been installed and set to 85 decibels. The noise limiter could not be tampered with and cut off all noise once it reached the level set.

The Licensee's representative informed the Panel that the Due Diligence logs submitted gave a 'snapshot' of the records made at the premises. The licensee had placed the premise on a risk register and monitored how it had been operated. Licensing Due Diligence visits had been made by the Business Development Manager on a number of occasions and on his last visit he had taken his wife. He had reported that there was no excessive noise or untoward behaviour in or outside of the premises and a SIA registered door man had been present. Reference was then made to the minutes of meetings held on 7 February and 3 May 2011 at the premises.

The Licensee's representative explained that the issues of noise were being addressed where possible and that the Parish Council had indicated that a reduction in the licensable hours would be beneficial. He reported that no representations had been received from the police or the Council's Environmental Health Unit and that neither had applied for a Review of the licence. The premises had complied with the request from Environmental Health to install a noise limiter which had been set to 85 decibels. Inconsistencies in the evidence provided were highlighted and the Licensee's representative added that positive comments had also been received in relation to the noise reduction.

The Licensee's representative confirmed that letters of support had been received from local residents and requested that two be called as witnesses. He then questioned the first witness and the following responses were provided:

- She had lived in her property for 12 years and it was 50 metres from the premises.
- She had not experienced any noise or disturbance.
- A relative worked at the premises but this had not affected her opinion.
- She frequented the premises.
- Her room at the front overlooked the vicarage.
- She slept at the rear of her property.
- She had not heard any noise or witnessed any anti social behaviour.
- Her vehicle had been stolen a few years ago but she had not blamed the patrons of the premises.
- She had asked the street cleaner if there was a problem with litter from the premises and had been informed that there was not.
- She had signed a petition to support the premises a while ago.

Another local resident was called and provided the following statements:

- She lived near to the premises.
- Her children slept in the room at the front of her property.
- She had slept in the room at the front and the premise was at the side of her property.
- She had not been disturbed by the premises and her children were not affected now.
- She worked in another public house owned by the Managing Director and DPS of the premises but it had not affected her judgement.

The Licensee's representative continued and informed Members that other premises in the area had late licences but not all took advantage of the hours. The original opening hours of the premises was until 2300 hours, however, there was a dining area and the traditional closing time for such premises was midnight. He stated that it was not commercially viable to maintain the business if the hours were restricted to 2300 hours. The Licensee had refurbished the property, installed new management and was looking to establish the premises as a family food pub which would appeal to the community. The Review applicant had been approached by the Licensee's representative and asked whether it

would be acceptable to license the premises until 0030 hours and close at 0100 hours, but the offer had been rejected. The Licensee's representative then proposed a further compromise that the premise be licensed until midnight and close at 0030 hours every night. He stated that the effect of the measures would alter the clientele and prevent disturbances to residents. With regards to the SIA registered door staff, he indicated that they would no longer be required due to the proposed reduced hours and that there were no requirements for further restrictions due to the installation of the noise limiter.

With regards to the suggested offer, the Council's legal officer questioned what the proposals would be in relation to the non-standard hours on the licence. In response the Licensee's representative stated that they wished to retain those previously granted. He continued explaining that the operation and management of the premises was very important. The property had three rooms that were let out and any noise issues would affect this. The SIA registered door staff were also not conducive to a family premise.

The Panel then questioned the Licensee's representative and witnesses and was informed that:

- The SIA registered door staff were employed as agreed in the Action Plan.
- The smoking area was to the left of the front entrance and drinks were not allowed outside after 2200 hours.
- The number of customers varied from week to week and that the door staff's log detailed the numbers in the premises. A cross section of the community frequented the premises after midnight and it was not solely a 'young persons' venue.
- A 1940s weekend took place on 14 and 15 May 2011 and the premises and village had been very busy. An influx of people had arrived at midnight and the premises had closed at 0100 hours, however, people were still outside waiting to get in and smoking and drinking, therefore the police were asked to drive past.
- The flyers circulated related to the re-launch after the refurbishment, however, the plan was to re-brand the premises but this would take time.
- The process for re-positioning the premises had not been discussed prior to the meeting that occurred in December 2010. The issue had been acknowledged and ways in which the business could be re-positioned were being looked at. The process would not take 3 months or 3 years, but limits could not be placed on the business. There was no intention to move away from what had been agreed through the Action Plan.
- The premises would become a family pub not a gastro pub and part of the refurbishment was to make the premises more food and family orientated. There was a new menu that was aimed at specific sectors of the customer base and there had been a key shift towards food. This was part of a new initiative focussing on value, service and quality which had been established by the Licensee.

In response to questions from the Review applicant and witnesses, the Licensee's representative confirmed that:

- The noise limiter cut off the circuit when the set noise level was reached. The limiter had also been re-set to 80 decibels following a visit by the Council's Environmental Health Unit.
- The Council's Environmental Health Unit had visited the premises due to a complaint and had re-set the noise limiter to 80 decibels as they had said the premise was too noisy.
- The management of the premises was a key factor and if ignored then customers would be asked to leave. There were many premises that had a condition on the licence regarding outside drinking which was managed through notices and staff.

In summation the Review applicant reported that the premise was close to a sheltered housing complex. The Council's Environmental Health Unit had visited recently and re-set the noise limiter to 80 decibels, however, this was still loud for old people. The Review applicant indicated that they did not want the public house to close, but they wanted all the late hours to be removed from the licence. Local residents had a right to peace and quiet and their views had not been acknowledged by the premises. It was stated that a family focussed public house would not be required to open until midnight and that a licence until 2330 hours would be late enough. The Licensee needed to decide how it wanted to re-brand the premises as the flyer circulated summed up the current position, i.e. cheap drink. In conclusion the Review applicant reiterated that local residents had the right to a peaceful life.

The Licensee's representative then addressed the Panel and reiterated that responsible authorities had not submitted any representations. The noise limiter had been re-set to 80 decibels following a visit by the Council's Environmental Health Unit, the issues raised had been resolved and there was disparity between the residents' complaints. He stated that the proposed hours were similar to other premises in the area and a reduction in the licensable hours would be detrimental to the premises and the community would suffer.

With regards to the Review, the Licensee's representative indicated that its purpose was to establish the cause of concern and remediate actions to resolve the underlying cause. The powers of the Licensing Act could not be used to control people outside who were not under the control of the premises or its staff and their behaviour was a matter for the police. He explained that the main issue for residents was the people outside on the street and the necessary response was to reduce the hours to those proposed, which were consistent with other public houses in Haworth. There would not be a requirement for SIA registered door staff if the hours were reduced and the style of the operation would be dependant upon the decision of the Panel. The Licensee's representative stated that there was no need for any restrictions upon the entertainment element of the Licence and that there would be a financial detriment to the premises if the proposed hours were reduced. The premises appealed to a broad range of age groups and there was no conclusive evidence that the proposed hours were not required for a family food establishment. In conclusion he confirmed that the Licence could not control people outside of the premises and that problems would still occur. The proposed reduction in the licensable hours would reduce the main concerns of local residents and a family focussed premise would appeal to a broad range of the community.

The Chair requested that the proposed hours be clarified and in response the Licensee's representative confirmed that the suggested standard licensable hours for the sale of alcohol was until midnight on Sunday to Saturday, with the provision of films, sporting events and late night refreshment licensed until 0030 hours. He requested that the non-standard hours be retained as other premises in the area were licensed for additional hours on Bank Holidays. With regards to the SIA registered door staff it was confirmed that their requirement was not a condition of the licence and their need would be re-assessed.

Decision

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

- 1.1 That the hours of the existing licensable activities for the sale/supply of alcohol and regulated entertainment be restricted as follows:**

Sale of alcohol	Monday to Sunday: 0900 – 0000
Exhibition of films	Monday to Sunday: 0900 – 0030
Late night refreshment	Monday to Sunday: 0900 – 0030
Indoor sporting events	Monday to Sunday: 0900 – 0030

Non Standard Timings: A further additional hour for all permitted licensable activities on the Friday, Saturday, Sunday and Monday of every statutory Bank Holiday.

- 1.2 That a minimum of one SIA registered door supervisor be employed at the premises when the premises is open beyond the standard hours until the premises are closed and clear of customers.**

Reason: It is considered that the above conditions are necessary in order to ensure proper supervision of the premises in order to deter and ameliorate any anti-social behaviour. Prevention of crime and disorder and prevention of public nuisance objectives.

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