

BARNSLEY METROPOLITAN BOROUGH COUNCIL

Report of the Assistant
Director of Regulatory Services
to the meeting of the Statutory
Licensing Regulatory Board
Sub Committee to be held on
the 16th April 2008.

LICENSING ACT 2003

APPLICATION FOR A PREMISES LICENCE

The Cross Keys Filling Station, Sheffield Road, Hoyland Common

1. Background

- 1.1 In February 2008 an application under the provisions of the Licensing Act 2003 was received from Mr. James Stephen Goodwill for a premises licence for Cross Keys Filling Station. A copy of this application is attached as Appendix 1.
- 1.2 Members are requested to determine the application for the Premises Licence.
- 1.3 The Cross Keys Filling Station is a petrol filling station with an associated retail forecourt store. The applicant is intending to extend the existing store to provide in excess of 700 square feet of retail space serving a range of fresh foods, groceries and other products, together with alcohol if this application is approved.

2 Prohibition of alcohol sales at services areas, garages etc

- 2.1 Section 176 of the Licensing Act 2003 prohibits the sale of alcohol from excluded premises. A copy of this section of the Act is attached as Appendix 2.
- 2.2 Section 176 (2)(b) is applicable in this case and states:

"excluded premises" means.....premises used primarily as a garage or which form part of a premises which are primarily so used.

- 2.3 The Section 182 Guidance issued in June 2007 by the Department of Culture Media and Sport (DMCS) clarifies further what should be considered as “primary use”. A copy of this guidance is attached as Appendix 3.
- 2.4 As the extension to the premises has not yet taken place, the applicant has provided projected footfall figures and a copy of these are attached at Appendix 4.

3 The Application for a Premises Licence

- 3.1 On the 15th February 2008 an application was made for a Premises Licence for Cross Keys Filling Station, Sheffield Road, Hoyland Common, Barnsley. This application relates to the supply of alcohol The details of which are specified below:

a) Supply of Alcohol

The premises licence application has been made in respect of the provision of supply of alcohol. The hours requested are for supply of alcohol for consumption off the premises between the hours of 06.00 and 22.00hrs every day.

b) Hours Premises are open to the public

The premises licence application has been made to allow the premises to open between the hours of 06.00 and 22.00hrs every day.

4 Promotion of licensing objectives

- 4.1 The applicant has set out in the application the additional steps intended to be taken in order to promote the four licensing objectives, if the proposed premises licence is granted.

a) General – all four licensing objectives

Audible alarm system, CCTV with recording facilities, fully trained staff with on going training regime, Spirits located behind counter area. Challenge 21 and Pass accredited proof of age initiative embraced, refusal book, instore signage.

b) The prevention of crime and disorder

Audible alarm system, CCTV with recording facilities, instore signage, spirits located behind counter area.

c) Public Safety

Staff trained in fire safety procedures and evacuation procedures, fire safety equipment located on site with staff trained in its use.

d) The prevention of public nuisance

Staff trained to deal with situations

e) The protection of children from harm

Staff fully trained in alcohol sales with on going refresher training, spirits located behind the counter area. Challenge 21 and pass accredited proof of age scheme, instore signage, refusal book.

5 Responsible Authorities

- 5.1 No representations have been received from any responsible authorities.

6 Interested parties

- 6.1 Following publication of the statutory notice of the application for the premises licence in the local press and the display of notices at the premises one representation has been received from an interested party.
- 6.2 The representation has been received from Mr Stuart Jackson of the Cross Keys Inn Sheffield Road, Hoyland Common, Barnsley which is a public house located adjacent to the applicants premises. A map of showing the location of the premises is attached at Appendix 6.
- 6.3 The representation made by the interested party relates to the licensing objectives and is attached as Appendix 5.
- 6.4 The representation sets out three areas of concern in relation to the licensing objectives and these are:
- a) The premises are a fuel filling station, and could encourage normally responsible drivers to take a drink whilst driving.

- b) The above could certainly be applied to the younger inexperienced driver, out to impress his/her partner/friends.
- c) It will be a magnet to the youth of Hoyland Common and Birdwell causing:
 - i) Potential underage drinking
 - ii) Binge drinking
 - iii) Rowdy behaviour
 - iv) Litter
 - v) Groups of youths encouraging underage consumption
 - vi) 18 year olds have both older and younger friends, and would be encouraged into buying alcohol for their younger friends.

7 Compatibility with the European Convention on Human Rights

The decision of the Board will amount to a determination of the Council and the rights of the applicant. Therefore, as far as it is possible to do so, the board must comply with the requirements of Article 6 (the right to a fair trial). This means the applicant and should be afforded the right to make oral representations at the meeting.

If Members determine to refuse the application, it is necessary for the reasons to be clearly stated.

8 Financial implications

N/A.

9 List of appendices

Appendix 1 - Copy of the application

Appendix 2 – Copy of section 176 of the Licensing Act 2003

Appendix 3 – Extract from the DCMS guidance relating to “excluded premises”

Appendix 4 – Proposed footfall figures

Appendix 5 – Location plan of the premises

Appendix 6 – Representation from interested party.

Officer Contact: Mr K Rowland Tel: 01226 772614 Date: 27/03/08

Appendix 1

Application for a premises licence to be granted 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 that 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.

I/We JAMES STEPHEN GOODWILL
(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description	
CROSS KEYS FILLING STATION SHEFFIELD ROAD HOYLAND COMMON	
Post town	BARNSLEY
Post code	S74 0PY

Telephone number at premises (if any)	01226 744482
Non-domestic rateable value of premises	£6800

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as
Please tick yes

- | | |
|---|---|
| a) an individual or individuals * | <input checked="" type="checkbox"/> please complete section (A) |
| b) a person other than an individual * | |
| i. as a limited company | <input type="checkbox"/> please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> please complete section (B) |
| c) a recognised club | <input type="checkbox"/> please complete section (B) |
| d) a charity | <input type="checkbox"/> please complete section (B) |

- a) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒
- I am making the application pursuant to a
 - statutory function or ☐
 - a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname GOODWILL			First names JAMES STEPHEN		
I am 18 years old or over <input checked="" type="checkbox"/> Please tick yes					
Current postal address if different from premises address		THE FLAT CROSS KEYS FILLING STATION SHEFFIELD ROAD HOYLAND COMMON			
Post Town	BARNSELY			Postcode	S74 0PY
Daytime contact telephone number		01226 744482			
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over <input type="checkbox"/> Please tick yes					

Current postal address if different from premises address			
Post Town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

Day Month Year
2 0 0 3 2 0 0 8

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day Month Year
[][][][][][][][]

Please give a general description of the premises (please read guidance note1)

WELL ESTABLISHED LOCAL INDEPENDENT FORECOURT STORE TO BE EXTENDED PROVIDING A RETAIL SPACE IN EXCESS OF 700 SQUARE FEET SERVING BOTH THE LOCAL COMMUNITY AND THOSE FROM FURTHER AFIELD. THE STORE WILL OFFER A GOOD RANGE OF FRESH FOODS, GROCERIES AND OTHER PRODUCTS.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick yes

- | | |
|---|--------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of entertainment facilities:

- | | |
|---|--------------------------|
| i) making music (if ticking yes, fill in box I) | <input type="checkbox"/> |
| j) dancing (if ticking yes, fill in box J) | <input type="checkbox"/> |
| k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K) | <input type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box L)

☐

Supply of alcohol (if ticking yes, fill in box M)

☒

In all cases complete boxes N, O and P

NOTE: Pages 5 to 16 have not been included as they are blank

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	06.00	22.00			
Tue	06.00	22.00			
Wed	06.00	22.00			
Thur	06.00	22.00	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri	06.00	22.00			
Sat	06.00	22.00			
Sun	06.00	22.00			

State the name and details of the individual whom you wish to specify on the licence as
premises supervisor

Name	JAMES STEPHEN GOODWILL
Address	THE FLAT CROSS KEYS FILLING STATION SHEFFIELD ROAD HOYLAND COMMON BARNSELY
Postcode	S74 0PY
Personal Licence number (if known)	NOT YET KNOWN
Issuing licensing authority (if known)	BARNSELY METROPOLITAN BOROUGH COUNCIL

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

NONE

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4)
Day	Start	Finish	
Mon	06.00	22.00	<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5)
Tue	06.00	22.00	
Wed	06.00	22.00	
Thur	06.00	22.00	
Fri	06.00	22.00	
Sat	06.00	22.00	
Sun	06.00	22.00	

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

AUDIBLE ALARM SYSTEM, CCTV WITH RECORDING FACILITIES, FULLY TRAINED STAFF WITH ONGOING TRAINING REGIME, SPIRITS LOCATED BEHIND COUNTER AREA. CHALLENGE 21 AND PASS ACCREDITED PROOF OF AGE INITIATIVE EMBRACED, REFUSAL BOOK, INSTORE SIGNAGE.

b) The prevention of crime and disorder

AUDIBLE ALARM SYSTEM, CCTV SYSTEM WITH RECORD FACILITY, INSTORE SIGNAGE, SPIRITS LOCATED BEHIND COUNTER AREA.

c) Public safety

STAFF TRAINED IN FIRE SAFETY PROCEDURES AND EVACUATION PROCEDURES, FIRE SAFETY EQUIPMENT LOCATED ON SITE WITH STAFF TRAINED IN ITS USE.

d) The prevention of public nuisance

STAFF TRAINED TO DEAL WITH SITUATIONS.

e) The protection of children from harm

STAFF FULLY TRAINED IN ALCOHOL SALES WITH ONGOING REFRESHER TRAINING, SPIRITS LOCATED BEHIND COUNTER AREA, CHALLENGE 21 AND PASS ACCREDITED PROOF OF AGE SCHEME, INSTORE SIGNAGE, REFUSAL BOOK.

- Please tick yes
- I have made or enclosed payment of the fee ☒
 - I have enclosed the plan of the premises ☒
 - I have sent copies of this application and the plan to responsible authorities and others where applicable ☒
 - I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable ☒
 - I understand that I must now advertise my application ☒
 - I understand that if I do not comply with the above requirements my application will be rejected ☒

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 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	<i>S. Clement</i> - AP Lockett & Co
Date	15 TH FEBRUARY 2008
Capacity	LOCKETT & CO - DULY AUTHORISED AGENT

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

LOCKETT & CO
13 CHURCH STREET

Post town	KIDDERMINSTER	Post code	DY10 2AH
Telephone number (if any)	01562 864488		
If you would prefer us to correspond with you by e-mail your e-mail address (optional) info@lockett.uk.com			

Consent of individual to being specified as premises supervisor

x JAMES STEPHEN GOODHILL.

[full name of prospective premises supervisor]

of

x THE PLAT.
CROSS KEYS FILLING STATION
SHEFFIELD ROAD.
HOYLAND COMMON
BARNESLEY.
S74 0PY.

[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

[type of application] PREMISES LICENCE FOR THE SALE OF ALCOHOL FOR
CONSUMPTION OFF THE PREMISES.

by

JAMES STEPHEN GOODHILL.

[name of applicant]

relating to a premises licence

[number of existing licence, if any]

for

x CROSS KEYS FILLING STATION.
SHEFFIELD ROAD
HOYLAND COMMON.
BARNESLEY.
S74 0PY.

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

(name of applicant) JAMES STEPHEN GOODWILL

concerning the supply of alcohol at

☒ CROSS KEYS KILLING STATION
STEEPLE ROAD
HOYLAND COMMON
BARNISLEY
ST4 0PY

(name and address of premises to which application relates)

I also confirm that I ~~am applying for~~, intend to apply for or ~~currently hold~~ a personal licence, details of which I set out below.

Personal licence number

☒ NOT YET KNOWN

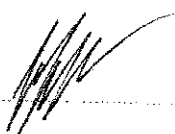
(insert personal licence number, if any)

Personal licence issuing authority

☒ BARNISLEY METROPOLITAN BOROUGH COUNCIL

(insert name and address and telephone number of personal licence issuing authority, if any)

Signed



Name (please print)

☒ JAMES GOODWILL

Date

21/1/08

Appendix 2

Extract from the Licensing Act 2003

Service areas and garages etc.

176 Prohibition of alcohol sales at service areas, garages etc.

(1) No premises licence, club premises certificate or temporary event notice has effect to authorise the sale by retail or supply of alcohol on or from excluded premises.

(2) In this section "excluded premises" means—

(a) premises situated on land acquired or appropriated by a special road authority, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes); or

(b) premises used primarily as a garage or which form part of premises which are primarily so used.

(3) The Secretary of State may by order amend the definition of excluded premises in subsection (2) so as to include or exclude premises of such description as may be specified in the order.

(4) For the purposes of this section—

(a) "special road" and "special road authority" have the same meaning as in the Highways Act 1980 (c. 66), except that "special road" includes a trunk road to which (by virtue of paragraph 3 of Schedule 23 to that Act) the provisions of that Act apply as if the road were a special road,

(b) "class I" means class I in Schedule 4 to the Highways Act 1980 as varied from time to time by an order under section 17 of that Act, but if that Schedule is amended by such an order so as to add to it a further class of traffic, the order may adapt the reference in subsection (2)(a) to traffic of class I so as to take account of the additional class, and

(c) premises are used as a garage if they are used for one or more of the following—

- (i) the retailing of petrol,
- (ii) the retailing of derv,
- (iii) the sale of motor vehicles,
- (iv) the maintenance of motor vehicles.

Appendix 3

Extract from Section 182 DCMS Guidance

GARAGES

5.23 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises that are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used as a garage if they are used for one or more of the following:

- the retailing of petrol;
- the retailing of derv;
- the sale of motor vehicles; and
- the maintenance of motor vehicles.

5.24 The licensing authority must decide whether or not any premises is used primarily as a garage. The approach endorsed so far by the courts is based on intensity of use to establish primary use. For example, if a garage shop in any rural area is used more intensely by customers purchasing other products than by customers purchasing the products or services listed above, it may be eligible to seek authority to sell or supply alcohol.

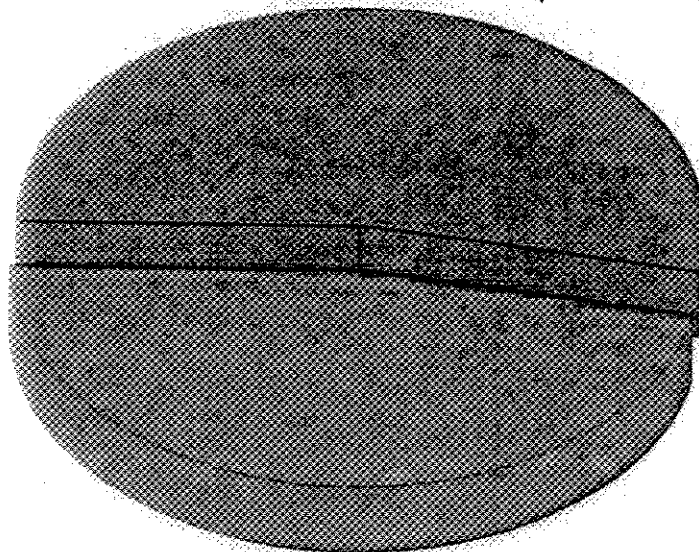
5.25 Where there is insufficient evidence to establish primary use, it is for the licensing authority to decide whether to grant the licence and deal with any issues through enforcement action or to defer granting the licence until the primary use issue can be resolved to their satisfaction.

Appendix 4

Analysis of Customer Flow - Shop v Forecourt

Cross Keys Filling Station, Sheffield Road, Hoyland Common, Barnsley

Number of Shop Customers - 226120 (53.1%)



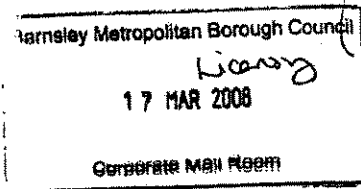
Number of Fuel Customers - 199930 (46.9%)

Analysis of Projected Customer Flow

Client Name: Cross Keys Filling Station, Sheffield Road, Hoyland Common, Barnsley

	Shop Sales - £	Average Shop Purchase - £	Number of Shop Customers	Number of Fuel Customers	Average Fuel Purchase - Litres	Fuel Sales - Litres
Month 1	49950	3.11	16061	16040	26.73	428740
Month 2	52220	3.15	16594	16152	26.69	431151
Month 3	54491	3.18	17114	16264	26.66	433562
Month 4	56761	3.22	17622	16377	26.62	435973
Month 5	59032	3.26	18119	16491	26.58	438384
Month 6	61302	3.29	18605	16604	26.55	440795
Month 7	63573	3.33	19080	16718	26.51	443205
Month 8	65843	3.37	19544	16832	26.47	445616
Month 9	68114	3.41	19998	16946	26.44	448027
Month 10	70384	3.44	20443	17061	26.40	450438
Month 11	72655	3.48	20878	17176	26.37	452849
Month 12	74925	3.52	21304	17292	26.33	455260
Totals	749250	3.31	226120	199930	26.53	5304000

Appendix 5



Cross Keys Inn

Sheffield Road
Hoyland Common
Barnsley
South Yorkshire
S74 0PY

Tel: 01226 742277
Fax: 01226 740082

BMBC Licensing Department
PO Box 602
Barnsley
South Yorkshire
S70 9FB

13th March 2008

Re: Cross Keys Garage Application for Off Licence

Dear Sir

We would like to raise objections to this Licence Application on the following grounds.

- 1, The premises are a Fuel Filling Station, and could encourage normally responsible drivers to take a drink whilst driving.
- 2, The above could certainly be applied to the younger inexperienced driver, out to impress his/her partner/friends.
- 3, It will be a magnet to the youth of Hoyland Common and Birdwell causing
 - (a) Potential underage drinking
 - (b) Binge drinking
 - (c) Rowdy behaviour
 - (d) Litter
 - (e) Groups of youths encouraging underage consumption
 - (f) 18 year olds have both older and younger friends, and would be encouraged into buying alcohol for their younger friends

Based upon the above points, we would ask the Licensing Committee to refuse the Licence Application.

Yours sincerely

A handwritten signature in black ink, appearing to read "Stuart Jackson".

pp. Cross Keys Inn
Stuart Jackson
Partner

Appendix 6

