

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Thursday, 30th May, 2013

Present: Cllr Mrs F A Kemp (Chairman) Cllr Mrs J A Anderson and Cllr Mrs P Bates.

Together with the Licensing Authority and Mr L Gaul (the applicant) of The Harp. Councillor Mrs E Holland (on behalf of Councillor H Rogers, ward member for Golden Green and East Peckham), Mr G Haycock (Chairman of East Peckham Parish Council) and Mr T Roper (Deputy Chairman of East Peckham Parish Council) and Mr L Wright, Mr P Ferguson, Mrs S Gaskin, Mrs J MacDonald, Mr J Page, Mrs S Page, Mrs North, Mrs L Moat, Mr Proctor and Mrs Proctor (Interested parties) were also present.

PART 1 - PUBLIC

**LA
13/048** **DECLARATIONS OF INTEREST**

There were no declarations of interest made.

**DECISIONS TAKEN UNDER DELEGATED POWERS IN
ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE
CONSTITUTION**

**LA
13/049** **APPLICATION FOR A NEW SEXUAL ENTERTAINMENT VENUE
(SEV) LICENCE FOR THE HARP, 218 HALE STREET,
EAST PECKHAM**

The Panel considered carefully the written report of the Director of Central Services, together with the written representations included at Annex 3 to the report. The Panel heard in person from Lee Gaul, together with six persons who had made representations in response to the application.

It was reported that the Panel made a site visit to the premises on 28 May 2013.

By an email dated 29 May 2013 the Applicant confirmed his intention to amend the application to reflect the current hours of operation i.e. Tuesday to Saturday 5.00pm to 12.00 midnight.

The Panel had regard to the Council's policy on Sexual Entertainment Venues ('the Policy'). In particular, the Panel had regard to the provisions of paragraph 12 (Locality, Character and Layout) and

18 (Refusal of a Licence).

The Panel was satisfied that none of the mandatory grounds of refusal set out in paragraph 18.1 of the Policy applied to this application.

In accordance with paragraph 12.1 of the Policy, the Panel sought to identify the relevant locality where the premises are situated. In the view of the Panel, the relevant locality was the village of East Peckham. The Applicant and other persons present at the hearing were invited to comment upon what they regarded as being the relevant locality – the Applicant stated that he regarded the premises as being on the outskirts of the village; however a number of residents indicated that in their view the area in which the premises were situated was part of the village of East Peckham.

The Panel understood that the village of East Peckham consisted of several hamlets. It considered that the character of this locality was predominantly residential, within a village community. The only commercial activity in the immediate vicinity of the premises was Brookside Garden Centre. The Panel noted that a row of houses was situated immediately to the north of the premises, on the opposite side of Hale Street. To the south lay a more densely populated residential area of the hamlet of Hale Street.

In accordance with paragraphs 18.3(d), 12.5 and 12.6 of the Policy, the Panel then considered the proximity to other premises/establishments and whether, given the predominantly residential character of the locality, the premises may cause disturbance to the local community. The Panel made the following findings –

(1) The premises had been providing entertainment of a sexual nature for approximately six years under the authority of a premises licence issued under the Licensing Act 2003. There were no other premises in East Peckham providing entertainment of this nature.

(2) To the east of Hop Bine Close lies a playground.

(3) The closest primary school (East Peckham Primary School) was situated on Church Lane, approximately half a mile from the premises. The Holy Trinity Church was situated opposite East Peckham Primary School, with the village hall next door. However, any persons (including families with school children) travelling in a southerly direction down Hale Street towards the junction with Church Street or accessing other village amenities (including the Scout hut at Whitebine Gardens) would pass the premises.

(4) The Panel was not satisfied that the internal layout and condition of the premises was conducive to the proposed entertainment, or could reasonably be adapted to comply with the Council's standard conditions.

(5) Customers from the premises who wished to smoke stood outside the front entrance. This had given rise to complaints from local residents.

(6) The majority of customers to the premises were from outside the locality and travelled by car. There was a small car park to the south of the premises, along Hale Street. Residents had raised concern about the lack of parking at the premises, which leads to customers parking dangerously on the road.

(7) A total of 43 representations were received in response to the application. A number of issues were common to many of the representations, which could be summarised as follows –

(a) The venue is incompatible with the residential character of the village of East Peckham

(b) The location of the premises on a busy main road meant that many people entering or leaving the village (including those with small children) have to walk or drive past

(c) Littering by customers

(d) The poor condition of the premises

(e) Insufficient car parking leads to customers parking on the main road and causing a traffic hazard.

The Panel recognised that the premises had provided sexual entertainment for six years under their existing premises licence. However, the new powers adopted in 2012 gave the Council a wider discretion than previously in determining whether to grant a licence for this type of entertainment. In particular, the new provisions allowed for the Council to assess whether the grant of a licence for sexual entertainment at these premises would be appropriate, having regard to the character of the locality.

The Panel had determined that the character of the locality was predominantly residential, within a village community. Having carefully considered the findings set out earlier, it concluded that the grant of a licence in respect of the Harp would be inappropriate within this residential location.

For these reasons, the Panel therefore

RESOLVED: That the grant of a sexual entertainment venue licence in respect of the premises would be inappropriate, having regard to the character of the locality. The application was accordingly refused under paragraphs 12(2)(a) and 12(3)(d)(i) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

MATTERS FOR CONSIDERATION IN PRIVATE

**LA
13/050**

EXCLUSION OF PRESS AND PUBLIC

No items were considered in private.

The meeting ended at 1215 hours
having commenced at 1000 hours