

TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS PANEL

Monday, 5th August, 2013

Present: Cllr C Brown (Chairman), Cllr Mrs J A Anderson and Cllr Mrs C J Woodger.

Together with representatives of the Licensing Authority and Environmental Health Services, PC M Beresford of Kent Police, Mr D Best and Ms H Wadworth (interested parties) and Mr P Warne, Solicitor representing the premises licence holder (Punch Taverns), Mr K Clarke, Regional Manager for Punch Taverns, Mr J Pendry, Managing Director, Pendry's Pubs (Tenant), Mr A Frear (Master Victualler's Association) and Mrs G Roots, Designated Premises Supervisor.

PART 1 - PUBLIC

**LA
13/061** **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
13/062** **APPLICATION FOR REVIEW OF PREMISES LICENCE AT
THE SOMERHILL, 59 PEMBURY ROAD, TONBRIDGE**

The report of the Director of Central Services and Monitoring Officer set out details of an application received from Kent Police for a review of the Premises Licence in respect of premises known as The Somerhill, 59 Pembury Road, Tonbridge.

The Panel gave careful consideration to the report of the Director of Central Services, together with the application for review set out at Annex 2 and the written representations included at Annexes 3 to 11 of the report. The Panel heard in person from PC Mark Beresford of Kent Police, together with Mr Duncan Best and Helen Wadworth (local residents), Jacqui Rands (Environmental Health), Mr Piers Warne (Solicitor for Punch Taverns), Mr Alex Frear (Master Victualler's Association) and Mrs Glenda Roots (Designated Premises Supervisor).

On behalf of the premises licence holder, Mr Warne had written to Kent Police to suggest alternative conditions that would be acceptable to his client. PC Beresford confirmed at the hearing that these conditions were acceptable to Kent Police, without prejudice to his

contention that the hours of operation for licensable activities should also be amended.

A number of issues were raised by Kent Police, Environmental Health and local residents concerning the operation of the premises. These included:-

(1) Six complaints of noise nuisance made to Environmental Health since 2009 – primarily from amplified noise and customer noise.

(2) Local residents contended that the behaviour of customers in the garden area was particularly unacceptable, with repeated incidents of foul language. Residents complained of repeated instances of disturbance from the premises.

(3) One of the six incidents reported to Environmental Health, on 5 May 2013, arose out of the operation of a charity event at the premises. This event involved noise in the garden area, both through live and recorded music. It was accepted that this was a particularly distressing event for residents.

(4) There was a dispute between the parties as to the efforts made by the Designated Premises Supervisor to engage with local residents. Mrs Roots contended that she had been advised by Kent Police not to do so. In the absence of Ellen Shaw from Kent Police, the Panel were unable to determine whether such an indication had indeed been given. The residents considered that little attempt had been made by the management at the premises to communicate with them.

(5) The premises licence holder contended that they had not been allowed the opportunity to implement voluntary measures following their most recent meeting, to address the issues at the premises. It was suggested on their behalf that this was contrary to the guidance of the Secretary of State and the licensing policy of the Borough Council.

(6) Allegations of intimidation of local residents by persons connected with the premises. The Panel was concerned to hear of this issue, however it felt that intimidation was an issue for Kent Police rather than the licensing review process.

The Panel considered the relevant provisions of the Council's licensing policy and the guidance of the Secretary of State (in particular chapters 2 and 11).

The Panel considered carefully whether to revoke or suspend the licence, but felt that would be a disproportionate response to the issues giving rise to the review. However, the Panel considered that the management of noise at the premises (and in particular in the garden area) had given rise to public nuisance and that it would be appropriate to modify the conditions of the licence as follows in order to prevent disturbance to local residents.

Sale of alcohol

Monday to Sunday 1000 – 2330

Live music
Monday to Sunday 1000 to 0000 midnight

Recorded music
Monday to Sunday 1000 to 0000 midnight

Opening hours
Monday to Sunday 1000 – 0000 midnight

Non-standard timings –
New Year's Eve – Sale of alcohol/live music/recorded music 10.00 to 0100. Opening hours 1000 to 0130

1. The garden and smoking shelter to the rear of the premises are to be closed to customers from 22:00 daily.
2. From 22:00 until the premises are closed to the public, the area immediately outside the front of the premises shall be regularly monitored to ensure as best as possible that customers do not take glasses or bottles onto the public footpath or beyond.
3. All doors and windows to be kept shut when any form of regulated entertainment, including live or unamplified music is being provided indoors. Access and egress doors to the public house should be fitted with appropriate self closers to minimise noise outbreak.
4. Regulated entertainment is to be limited to no more than twice a month, with the exception of December where regulated entertainment can be provided once a week and additionally on Christmas Eve, Boxing Day and New Year's Eve.
5. Up to six 'events' where regulated entertainment is to be provided are to be permitted each calendar year in the garden.
6. All 'events' to be held in the garden are to be properly risk assessed by the management of the premises, paying particular attention to the type of event, likelihood of excessive noise and appropriate end times.
7. Notification of events being held in the garden must be provided to the licensing authority and residents within a radius of 100 metres of the venue, not less than 14 days prior to the event taking place. The notification to local residents shall include the mobile phone number of the designated premises supervisor.
8. Regular checks of the garden will be undertaken at all times the garden is in use by a designated member (or members) of staff.
9. Signage will be prominently displayed requesting customers to respect neighbours and leave the premises quietly.
10. During regulated entertainment within the premises, the manager

or a designated member of staff will undertake noise checks outside the facade of the nearest noise sensitive properties and at the rear of the garden to ensure that levels are not likely to cause a disturbance. The result of these checks will be noted in a log, along with the outcome of any actions taken. These checks will be on a minimum hourly basis during the regulated entertainment, with the first check being at the commencement of the entertainment.

11. Residents' meetings shall take place on not less than a quarterly basis.

The Panel therefore RESOLVED to modify the conditions of the licence as set out above with effect from 5 August 2013.

MATTERS FOR CONSIDERATION IN PRIVATE

**LA
13/063**

EXCLUSION OF PRESS AND PUBLIC

No matters were considered in private.

The meeting ended at 1511 hours
having commenced at 1215 hours