

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building
Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ
West Malling (01732) 844522

NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

22 May 2015

To: MEMBERS OF THE LICENSING AND APPEALS PANEL
(Copies to all Members of the Council)

**NB ONLY MEMBERS
OF THE PANEL MAY
PARTICIPATE**

Dear Sir/Madam

Your attendance is requested at a meeting of the Licensing and Appeals Panel to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 2nd June, 2015 commencing at **10.00 am**

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

1. Apologies for absence
2. Declarations of Interest

Decisions to be taken under Delegated Powers

3. Application for a Review of a Premises Licence at The Medway Inn, 2 High Street, Wouldham 5 - 30

4. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive

5. Exclusion of Press and Public

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information

PART 2 - PRIVATE

6. Urgent Items - Part 2

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr Mrs P A Bates (Chairman)

Cllr H S Rogers

Cllr M Taylor

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TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

02 June 2015

Report of the Director of Central Services and Chief Monitoring Officer

Part 1- Public

Delegated

1 APPLICATION FOR A REVIEW OF A PREMISES LICENCE AT THE MEDWAY INN, 2 HIGH STREET, WOULDHAM, ROCHESTER, KENT, ME1 3XB

1.1 Introduction

- 1.1.1 The Licensing & Appeals Committee sitting as a Panel is asked to consider an application for the review of a premises licence made under Section 51 of the Licensing Act 2003 in relation to the premises known as The Medway Inn, 2 High Street, Wouldham, Rochester, Kent, ME1 3XB.
- 1.1.2 The premises known as The Medway Inn has the benefit of a premises licence under the provisions of the Licensing Act 2003, which authorises the carrying out of licensable activities for the sale of alcohol, performance of dance, Films, Live Music, Recorded Music and late night refreshment . A copy of the current licence is shown at **Annex 1**.
- 1.1.3 An application for a review of the premises licence with supporting documentation has been received from Mr Lance Peek, an immediate neighbour. A copy of the Review application is shown at **Annex 2**.
- 1.1.4 The Licensing Authority placed a pale blue A4 notice up at the premises for a period of 28 days running from the 30 April 2015 until the 28 May 2015. In addition a notice was placed on the Council's website and at the notice boards at Kings Hill and the Castle, Tonbridge.
- 1.1.5 At any stage, during the 28 day public consultation period, a responsible authority, or an interested party, may make representations in connection with any of the four licensing objectives namely:-
- Prevention of crime and disorder
 - Prevention of public nuisance
 - Public safety
 - Protection of children from harm

Provided that the grounds for the application for review are relevant to the promotion of the licensing objectives and, in the case of applications by interested

parties, are not vexatious, frivolous or repetitive, a hearing must be held to review the licence.

- 1.1.6 The 2003 Act requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The Council adopted its Statement of Licensing Policy on 14 December 2004. As required by Section 5 of the Act a revised policy was published on 2 November 2010 to last for three years. The Policy will be available at the meeting, for reference purposes.
- 1.1.7 Under the 2003 Act, it is the duty of all licensing authorities that, in carrying out their functions, they must have regard to Guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for any departure from it. The Guidance will be made available at the meeting for reference purposes.

1.2 The Application

- 1.2.1 The applicant is Mr Lance Peek, an immediate neighbour, living at 1 Hall Road, Wouldham, Rochester, Kent ME1 3XH. The application, which was received on the 14 April 2015 is show at Annex 2.
- 1.2.2 A map showing the The Medway Inn in relation to Mr Lance's property is show in **Annex 4**
- 1.2.3 The grounds for the review are based on the following licensing objectives:
- The prevention of public nuisance
 - The protection of children from harm

1.2.4 Representations received from statutory consultees:

Police	has no objections to make
Trading Standards	has made no comments
Social Service	has made no comments
Environmental Health	has no objections to make
Health & Safety	has made no comments
Planning	has made no comments

1.2.5 The licensing department has received the following representations from interested parties:

- As of the 21 May when this report has been written there were two Representations made in support of the Review submitted by Mr Peek and one Representation in support of the Medway Inn. These Representations are shown at **Annex 3**

1.3 Reasons for referral

1.3.1 The Licensing Authority must under the Licensing Act refer any application for a Review Hearing to the Licensing Sub- Committee. The Licensing Authority received a valid review application and documentation from an Interested Party, namely Mr Lance Peek, an immediate neighbour which is show at **Annex 2**.

1.3.2 Members are reminded that representations are only relevant if they relate to one or more of the four licensing objectives.

1.3.3 The Licensing Authority has advertised the application for a review as required. The application has been advertised for 28 days and a copy has been sent to all the responsible authorities. The purpose of this advertising is to enable other interested parties or responsible authorities to make any valid representations.

1.3.4 The Licensing Authority placed a pale blue A4 notice up at the premises for a period of 28 days running from the 30 April 2015 until the 28 May 2015. In addition a notice was placed on the Council's website and at the notice boards at Kings Hill and the Castle, Tonbridge.

1.3.5 The applicant and other persons that have made representations have been invited to attend the hearing.

1.4 Policy Considerations

1.4.1 The following provisions of the Secretary of State's Guidance apply to this application:

Chapters 3 – The licensing objectives

Chapter 8 – Applications for premises licences

Chapter 10 – Conditions attached to Premises Licences

Chapter 11 – Reviews

1.4.2 The following paragraphs of the Councils' Statement of Licensing Policy apply to this application:

Sections 1.8 to 1.13 – These sections set out the Council's approach with regard to licensing and details other mechanisms to deal with potential problems.

Sections 2 – 6 – These sections set out the four licensing objectives and identifies matter that may be relevant to the promotion of each licensing objective.

1.5 Legal Implications

1.5.1 The Licensing Act 2003 at section 4(1) requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives which section 4(2) sets out as:-

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance
- d) The protection of children from harm

1.5.2 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to its published statement of Licensing Policy and any guidance issued by the Secretary of State under section 182.

1.5.3 Having regard to the application and any relevant representations, the Licensing Authority must take such of the steps mentioned below as it considers appropriate for the promotion of the licensing objectives (section 52 of the Licensing Act). The steps are

- (a) To modify the conditions of the licence*;
- (b) To exclude a licensable activity from the scope of the licence;
- (c) To remove the designated premises supervisor;
- (d) To suspend the licence for a period not exceeding 3 months;
- (e) To revoke the licence

*Modification of the conditions of the premises licence can include the alteration or omission of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place

1.5.4 The applicant, the holder of the premises licence or any other person who has made a relevant representation in relation to the application all have a right of appeal to the Magistrates Court against the decision of the Sub Committee. A determination of an application does not have effect until the time allowed for appeal has elapsed, or where an appeal is made, until the appeal has been disposed of (Section 52 (11)).

1.5.5 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant and those making representations, against decisions of the Licensing Authority to the Magistrates Court.

1.6 Financial and Value for Money Considerations

- 1.6.1 None unless there is an appeal about the Panel decision to Magistrates' Court which proves to be successful and which could therefore result in costs being awarded against the Council.

1.7 Risk Assessment

- 1.7.1 Departure from the Guidance and Policy could lead to an increased risk on an appeal. Similarly if any decision made is not evidence based and proportionate.

1.8 Equality Impact Assessment

- 1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Recommendations

- 1.9.1 That Members determine the application carefully, considering the application along with any other representations made and takes such steps as the Sub-Committee consider appropriate for the promotion of the licensing objectives.

Background papers:

- Licensing Act 2003
- Tonbridge and Malling Borough Council
Statement of Licensing Policy
- LA 2003 October 2014 Guidance

contact:

Anthony Garnett
Katie Rigg

Adrian Stanfield
Director of Central Services and Monitoring Officer

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Schedule 12 Part A

Premises Licence Tonbridge & Malling Borough Council

Regulation 33,34

Premises Licence Number

14/00345/PREM issued 11th April 2014

Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

The Medway Inn
2 High Street
Wouldham
Rochester
Kent ME1 3XB

Telephone number 01634 666619

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

Sale of Alcohol
Performance of Dance
Films
Indoor Sporting Event
Live Music
Recorded Music
Other Entertainment falling within Act
Late Night Refreshment

Times the licence authorises the carrying out of licensable activities

Sale of Alcohol

Monday to Sunday	10:00 - 02:00
New Years Eve	10:00 - 05:00
Christmas Eve	10:00 - 03:00

Page 1 of 8

Premises Licence issued by
The Licensing Authority of Tonbridge and Malling Borough Council
Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ
Telephone Number 01732 876368

Performance of Dance (Indoors)

Monday to Sunday	20:00 - 02:00
New Years Eve	20:00 - 05:00
Christmas Eve	20:00 - 03:00

Films (Indoors)

Monday to Sunday	10:00 - 02:00
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Indoor Sporting Event

Monday to Sunday	10:00 - 02:00
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Live Music (Indoors)

Monday to Sunday	20:00 - 01:00
New Years Eve	20:00 - 05:00
Christmas Eve	20:00 - 03:00

Recorded Music (Indoors)

Monday to Sunday	10:00 - 02:00
New Years Eve	10:00 - 05:00
Christmas Eve	10:00 - 03:00

Other Entertainment falling within Act (Indoors)

Monday to Sunday	20:00 - 02:00
New Years Eve	20:00 - 05:00
Christmas Eve	20:00 - 03:00

Late Night Refreshment (Indoors and Outdoors)

Monday to Sunday	23:00 - 02:00
New Years Eve	23:00 - 05:00
Christmas Eve	23:00 - 03:00

Films

Sky TV and Video Jukebox

Indoor Sporting Events

Pool Table and Dart

Live Music

Local Live Bands not to exceed 2 per week and each performance not to exceed 3 hours

Anything of a similar nature falling within the Act**Disco Karaoke**

Not more than twice a week

Provision of facilities for dancing

Ad Hoc dance floor area

The opening hours of the premises

Monday to Sunday	10:00 - 03:00
New Years Eve	10:00 - 06:00
Christmas Eve	10:00 - 04:00

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption both on and off the Premises

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Michael O'Regan






Electronic Mail

Mobile Telephone Number




Registered number of holder, for example company number, charity number (where applicable)**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Mr Michael O'Regan
 2 Threshers Drive
 Weaving
 Maidstone
 Kent ME14 5UA

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Party Reference: 12/02526/LAPER

Licensing Authority: Maidstone Borough Council

Annex 1 – Mandatory conditions

1 Sale of Alcohol

1 (1) No supply of alcohol may be made under the premises licence-

(a) At a time when there is no designated premises supervisor in respect of the premises licence, or

(b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

2 (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to-

(i) Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) Drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-

- (i) The outcome of a race, competition or other event or process, or
- (ii) The likelihood of anything occurring or not occurring;

(e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

3 The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

4 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

5 The responsible person shall ensure that—

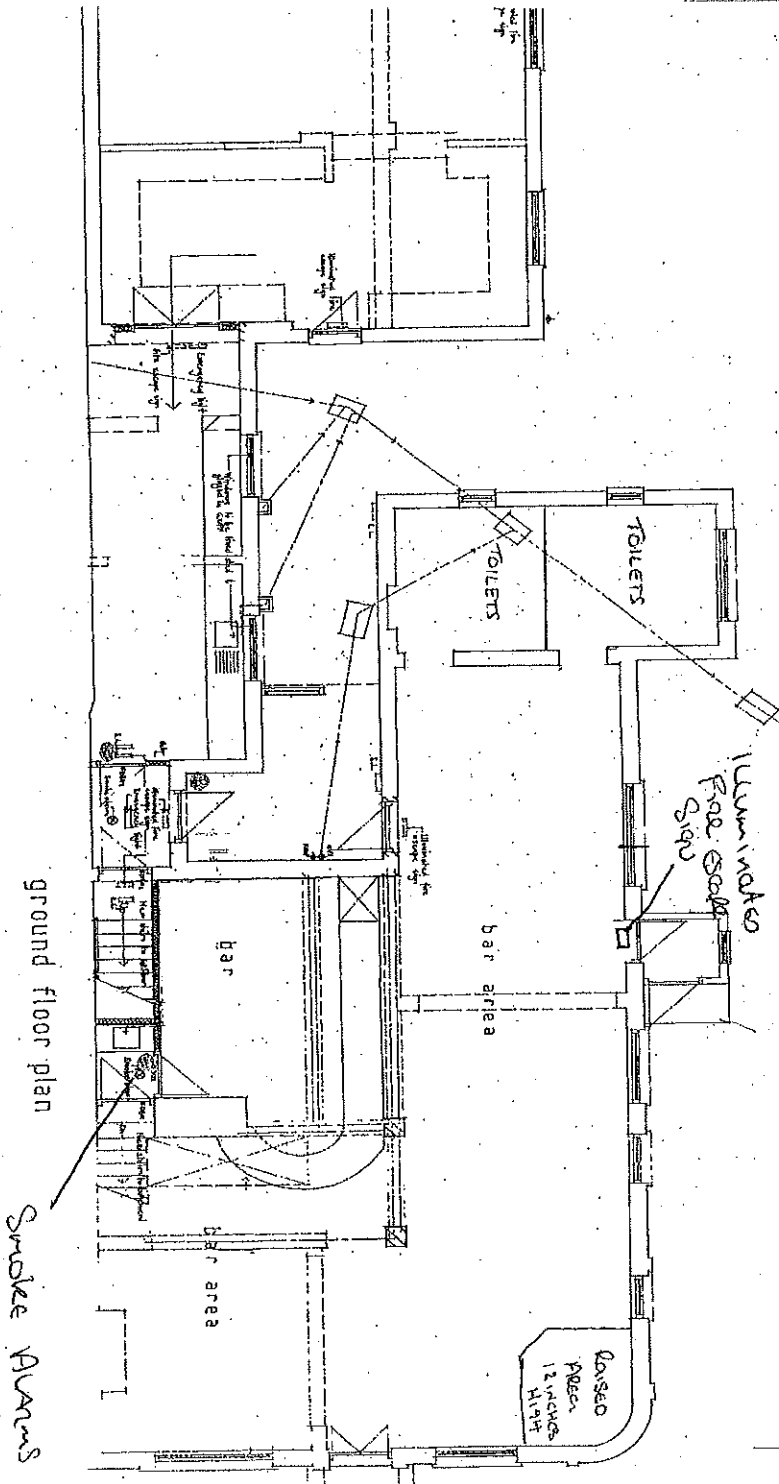
(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the Operating Schedule - None

Annex 3 – Conditions attached after a hearing by the licensing authority - None

Annex 4 – Plans



[Insert name and address of relevant licensing authority and its reference number (optional)]

Application for the review of a premises licence or club premises certificate 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 MR LANCE PEEK

(Insert name of applicant)

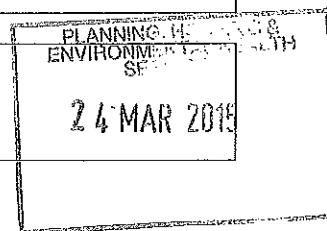
apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description <u>2 HIGH STREET (THE MEDWAY INN) WOULDHAM BAR + RESTAURANT ROCHESTER</u>	
Post town <u>KENT</u>	Post code (if known) <u>ME1 3XB</u>

Name of premises licence holder or club holding club premises certificate (if known)
NOT KNOWN

Number of premises licence or club premises certificate (if known)
NOT KNOWN



Part 2 - Applicant details

I am

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

Please tick yes

ADMIN/LEGAL SERVICES	<input checked="" type="checkbox"/>
14 APR 2015	
PASS TO	FOR INFO FOR DIST FOR ACTION

ADMIN/LEGAL SERVICES	<input type="checkbox"/>
01 APR 2015	
PASS TO	FOR INFO FOR DIST FOR ACTION

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)Please tick yesMr Mrs Miss Ms Other title
(for example, Rev)

Surname

PEEK

First names

LIANCE

I am 18 years old or over

Please tick yesCurrent postal
address if
different from
premises
address1 HALL ROAD
WOULDHAM
ROCHESTER

Post town

KENT

Post Code

ME1 3XH

Daytime contact telephone number

E-mail address
(optional)**(B) DETAILS OF OTHER APPLICANT**

Name and address

N/A

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address N/A.
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 2)

- ZAM LICENSE IN A RESIDENTIAL, RURAL/VILLAGE LOCATION - (JUSTIFICATION OF)
- INADEQUATE PARKING FOR RESTAURANT/TAKE AWAY PUB - CAUSING VEHICLES TO PULL UP/PARK - OFTEN ENGINE RUNNING OUTSIDE MY PROPERTY - ON DOUBLE YELLOW LINES BLOCKING MY EXIT/ENTRANCE ON MY OWN DRIVE.

NB/ PARKING HAS BEEN TAKEN AWAY BY SEATING AREA (FENCED OFF)

- INTOLERABLE NOISE POLLUTION - COMPLETE DISREGARD TO LOCAL RESIDENTS INCLUDING - FOUL AND ABUSIVE LANGUAGE, DRUNKEN BEHAVIOUR, LIVE MUSIC AND PARTIES IN UNSOCIABLE HOURS.

Please provide as much information as possible to support the application (please read guidance note 3)

AS A HOMEOWNER (NOT IN RENTAL ACCOMODATION) I HAVE BEEN A RESIDENT AT THIS PROPERTY (1, HALL ROAD, WOULDHAM) FOR 9 YEARS - WITHOUT INCIDENT FROM THE MEDWAY INN WHOM I HAVE BEEN NEIGHBOURS WITHOUT CAUSE FOR CONCERN.

HOWEVER, AS DEMONSTRATED WITHIN THE 'INCIDENT RECORD SHEETS' (SENT TO PETER THOMASON @ tmhc.gov.uk) THE UNBEARABLE NOISE NUISANCE HAS BECOME UNTENABLE SINCE NEW MANAGEMENT OF THE MEDWAY INN, WHICH HAS LEFT ME NO ALTERNATIVE BUT TO ADDRESS THIS AS A SERIOUS MATTER - VIA THIS ROUTE. THE MANAGEMENT HAVE NOT SOUGHT OPINION OF THE LOCAL RESIDENTS AND THIS IS FRUSTRATING AS THERE APPEARS TO BE NO MANAGEMENT OUTSIDE DURING CLOSING TIME, MOVING PEOPLE ON, ASKING TO RESPECT NEIGHBOURS AND LEAVE QUIETLY. NO SIGNAGE, NO VISIBLE CONTROL WHATSOEVER.

THE MEDWAY INN HAS ARRIVED AND AS A RESIDENT I AM EXPECTED TO ACKNOWLEDGE AND ACCOMODATE ITS BUSINESS UNTIL THE EARLY HOURS - WHEN MYSELF AND MY DAUGHTER OFTEN HAVE TO WORK / COLLEGE AND SIMPLY NEED A DECENT NIGHTS SLEEP. I DO NOT FEEL THIS IS UNREASONABLE.

I WOULD URGE THIS 2AM LICENSE TO BE REVOKED AND A SENSIBLE TIME OF MIDNIGHT TO BE APPLIED - AS A COMPROMISE TO ALL PARTIES. ✱

Have you made an application for review relating to the premises before

Please tick ✓ yes

No

If yes please state the date of that application

Day	Month	Year
┆	┆	┆

If you have made representations before relating to the premises please state what they were and when you made them

N/A.

ANNEX 3

From: [REDACTED]
To: "licensing.services@tmbc.gov.uk" <licensing.services@tmbc.gov.uk>
Date: 14/05/2015 15:32
Subject: Review of premises licence Medway Inn Wouldham

Morning

In relation to the notice for application to review the premises licence at The Medway Inn, Wouldham under section 51 I would like to say the the Medway Inn is an important part of the community. It creates a focal point for people to meet and is well managed by the landlord and landlady, Mike and Liz. There is rarely any trouble there and is a safe place to go. The atmosphere is such that I am quite happy to go to the pub on my own. The landlord and landlady support local charity's, and are more than willing to promote events at the premises which all of the villagers and surrounding villagers can attend.

The establishment is regularly busy, indicating how important it is to the local community, however I have never witness a disturbance or excessive noise which could affect nearby residents. I live 150 yards from the premises and have never heard any noise emitting from the pub.

I feel it would be a real shame and a detriment to the village if the licence review didn't go in favour of the licensee.

Kind regards
Dawn Humberstone
13 Castle Street
Wouldham
ME1 3UX

Sent from my iPad

3A HALL RD ANNEX 3

WOLLDHAM POLICE SERVICES

MIRI 3X 14 11 MAY 2015

PASS ID

FOR INFO
FOR BEST
EVIDENCE

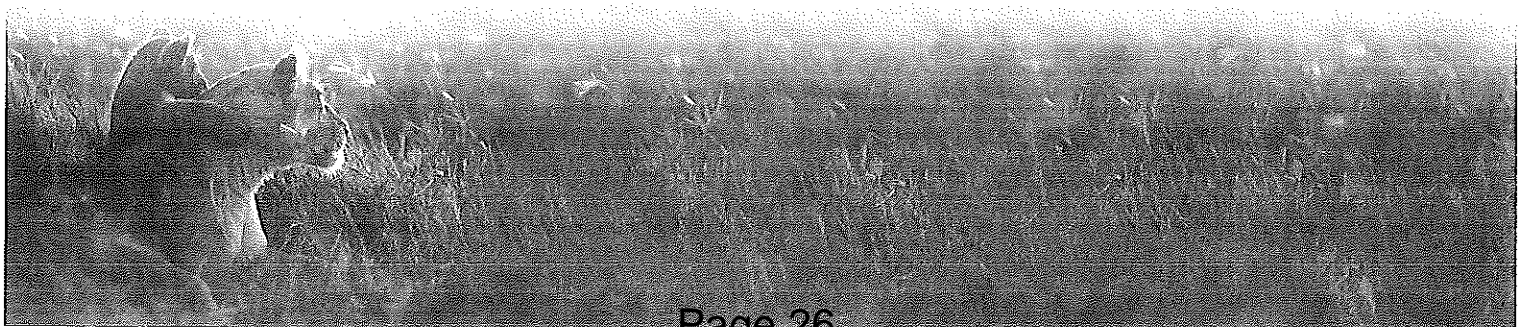
8 - 5 - 15

Dear Sir

I find I must object very strongly as to the request from the landlord of the Medway Inn 2 High St Woldham. He already is open until midnight and any extension on this would be completely out of character with the village. This is a residential area with many young children and old people living close by. I'm one of them in 68. There has already been disturbances including a fight and loud music. Please don't spoil our village please don't spoil my life

Yours most sincerely

Mr R. S. McDonald



Licensing Services - Medway Inn licencing review

From: [REDACTED]
To: <licensing.services@tmbc.gov.uk>
Date: 18/05/2015 09:09
Subject: Medway Inn licencing review

Dear Mr Garnett,

i would like to add my weight behind the Review of the Licence for the Medway Inn, High Street, Wouldham.

i have had to endure what i would describe as consistent noise issues from the public house, if it is not the live music that is played at levels that would be suited to Arena and not a public house then it is people leaving the public house well past midnight shouting and swearing. myself and my family are woken up on a regular basis on a weekend.

i just hope that this matter is taken serious and some action is taken by the counsel

regards
Adrian Smith MBACP
23 high steet
wouldham
kent
[REDACTED]

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