

LICENSING (2003 ACT) SUB-COMMITTEE

11th July 2005

DIRECTORATE OF FINANCE AND CORPORATE SERVICES

**REPORT OF THE HEAD OF LEGAL SERVICES
– C.A. JOHN**

INDEX OF REPORT ITEMS

PART 1 – Doc.Code: LICAS-110705-REP-FS-CJ

SECTION A – MATTERS FOR DECISION		
Report Item	Page Nos	Wards Affected
1. Licensing Act 2003 Transitional Premises Licence Applications		
Ref.No.: 001515 Applicant Name: Royal Oak Inn Applicant Address: Henfaes Road, Tonna, Neath, SA11 3EZ		Tonna

<u>Live music</u>	Monday – Sunday	11.30am – 2.00am (outside music to cease at 11.30pm)
<u>Recorded music</u>	Monday – Sunday	11.00am – 2.00am (outside music to cease at 11.30pm)
<u>Anything of a similar description</u>	Monday – Sunday	11.00am – 2.00am
<u>Provision of facilities for dancing</u>	Monday – Sunday	11.30am – 2.00am
<u>Late Night Refreshment</u>	Monday – Sunday	7.00pm – 2.00am
<u>Supply of Alcohol</u>	Monday – Sunday	11.00am – 2.00am
<u>Hours premise open to the public</u>	Monday – Sunday	11.00am – 2.30am

1.4 **Background Information**

The premises is located in a terrace of residential properties on the main road through the village of Tonna.

The premises currently hold a licence for the sale of alcohol only.

1.5 **Promotion of Licensing Objectives**

The following information has been provided by the applicant.

Prevention of Crime & Disorder

A responsible member of staff on duty at all times.

Ensure staff are aware of an prevent use of drugs and prevent use of drugs and notify authorities where illegal substances are identified.

Ensure there is no under-age drinking and provide signage in respect of underage drinking.

Do not serve overly intoxicated persons.

To participate in any schemes to support licensing objectives.

Disorderly persons are removed from the premises.

Public Safety

Ensure safe evacuation from premises especially disabled persons.
Ensure premises does not become overcrowded.
Provide plastic glasses for outside drinking when appropriate.
Ensure fire exits are kept clear at all times.
Consider CCTV for in and around the premises.
Ensure staff are aware of the location of fire extinguishers and exits.

Prevention of Public Nuisance

Curtains are closed at a reasonable time.
Windows and doors to be closed at a reasonable time.
At closing time ensure all bottles and rubbish is disposed of quietly.
Ensure any music does not affect people living nearby.
Ensure customers leave the premises in a quiet and orderly manner.
All music outside to finish at 11.30pm.

The Prevention of Children from Harm

To display signs advising of the restrictions in respect of the sale of alcohol.

Staff made aware it is illegal to sell alcohol to children.

Children must be accompanied by a responsible adult.

Proof of age to be required where necessary.

1.6 Relevant Representations

Responsible Authorities

Police

1. The area where each licensable activity takes place is not indicated on the plan of the premises, this is required by the Act.
2. The representation of the Beer Garden does not appear accurate. There is a paved area between the premises and the beer garden, the plan indicates that this area linking the two will not be used. There are tables and chairs to the front of the premises, these are not indicated on the plan.

3. Live music is requested until 2am inside the premises and until 11.30pm outside the premises. Given the location of these premises, i.e. in the middle of a terraced row of houses, this would appear to be inappropriate. This would contravene the licensing objective of preventing public nuisance.
4. In the Public Safety objectives, there are two statements which require quantifying. “The provision of plastic glasses when appropriate”, who decides what is appropriate? The premises is “looking at CCTV”, what does this mean?
5. In relation to Public Nuisance, there is no mention of noise limitors or cut-off devices fitted to windows and doors. Bottles and rubbish will be disposed of at closing time “as quietly as possible”. This means nothing, and disposal on the morning of the following day would be better. “Curtains will be closed “at a decent time”, what time is decent? These details have to be transferred into conditions on the operating schedule for the premises. It is not possible to make these statements into conditions.
6. It is intended that the premises be permitted to remain open until 2.30am each day. Given the location of these premises, the risk of public nuisance would increase, as a result of social disturbance, pedestrian and vehicular traffic from the premises. This would not promote the licensing objectives.

Environmental Health

1. Music until 11.30 outside of the main building – I feel that having regards to the position of the application premises that it would be impossible to have music outside of the building without causing nuisance to adjoining and nearby residents.
2. Music inside until 2.00am. Bearing in mind that we are dealing with a mid terrace property, I would question whether or not the party walls will be of sufficient sound insulation so as to ensure no nuisance is caused. I would want to see details of the party walls and the sound insulation values. These details should be provided by a suitably qualified person and if necessary include acoustic testing.
3. Consumption of alcohol outside of the premises – again because of the close proximity of residential property the use of the outside areas may cause problems from bad language etc.

Interested Parties

No representations submitted.

1.7 Policy Considerations

It is considered that the following policies have a bearing upon the application:-

Statement of Licensing Policy

The following paragraphs of the Neath Port Talbot Statement of Licensing Policy are considered relevant to the application:-

Public Nuisance

- 8.2 *The most important aspect of the system of permitted temporary activities is that no authorisation as such is required for these events from the licensing authority. The system involves notification of an event to the licensing authority and the police, subject to fulfilling certain conditions. In general, only the police may intervene to prevent such an event taking place or to agree a modification of the arrangements for such an event; and it is characterised by an exceptionally light touch bureaucracy. The licensing authority may only ever intervene of its own volition if the limits set out in the 2003 Act on the number of temporary event notices that may be given in various circumstances would be exceeded. Otherwise, the licensing authority is only required to issue a timely acknowledgement.*
- 8.6 *Many premises users giving temporary event notices will not have commercial backgrounds or ready access to legal advice. They will include, for example, people acting on behalf of charities, community and voluntary groups, schools, churches and hospitals all of which may stage public events to raise funding at which licensable activities will take place. Licensing authorities should therefore ensure that local publicity about the system of permitted temporary activities is clear and understandable and should strive to keep the arrangements manageable and user-friendly for these groups.*

Secretary of State's Guidance

The following provisions of the Secretary of State's Guidance appear to be relevant to this application:-

Licensing hours

3.29 With regard to licensing hours, the statement of policy should generally emphasise the consideration which will be given to the individual merits of an application. The Government strongly recommends that statements of policy should recognise that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance. The Government also wants to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists without compromising the ability to resource local services associated with the night-time economy. Providing consumers with greater choice and flexibility is an important consideration.

6.10 Licensing authorities should also not seek to engineer "staggered closing times" by setting quotas for particular closing times, for example, by allocating closing times of 11.00pm, 12 midnight, 1.00am, 2.00am, 3.00am etc. to specific premises. In the Government's view, this would only serve to replace the current peaks of disorder and disturbance after 11.00pm and after 2.00am with a series of smaller peaks, minimising any potential improvement in the prevention of crime and disorder or public nuisance and would not be necessary to promote the licensing objectives. The general principle should be to support later opening so that customers leave for natural reasons slowly over a longer period. This prevents any artificial concentrations. At present, permitted hours for ordinary public houses are set at times that research evidence suggests are artificially early, causing a high proportion of customers to remain until the fixed closing time. The benefit of later closing times, even if many are similar, is that customers will leave for a variety of reasons at a variety of times. For example, if all the public houses in a single street could open

until 3.00am, this would allow customers a far longer period than now to leave and disperse from that area.

Public Nuisance

7.39 The 2003 Act requires licensing authorities following receipt of relevant representations and, through the making of representations, responsible authorities to make judgements about what constitutes public nuisance and what is necessary, in terms of conditions attached to specific premises licences and club premises certificates to prevent it. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

7.40 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning for the Act's purposes. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the 2003 Act) in the vicinity of licensed premises.⁶

7.41 Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from premises, from simple mechanisms like ensuring that doors and windows are kept closed after a particular time in the evening to more sophisticated mechanisms like sound level inhibitors on amplification equipment or sound proofing. Any conditions necessary to promote the prevention of public nuisance should be tailored to the style and characteristics of premises and the type of activities expected to take place there.

7.42 As with all conditions, it will be clear that conditions relating to noise nuisance may in certain circumstances not be necessary where the provisions of the Environmental Protection Act 1990 and of the Noise Act 1996 adequately protect those living in the vicinity of the premises in question. But as stated earlier in this Guidance, the

approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be necessary.

7.43 Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise may also prove necessary to address any disturbance anticipated as customers enter and leave the premises and therefore, in the immediate vicinity of the premises.

1.8 Officer Observations

The committee is required to determine this application after taking into consideration the need to promote the licensing objectives and also the guidance issued by the Secretary of State and the Neath Port Talbot Statement of Licensing Policy.

The following observations are made in respect of the representations received from the police and environmental health:-

Plans/Beer Gardens

Police representations

Item 1 has been resolved. Regarding Item 2, it has been established that the plans need only show the areas presently covered by the existing Justices Licence.

Noise/Social Disturbance

Police and environmental health representations

The committee should consider whether appropriate conditions can prevent nuisance and social disturbance from the premises.

1.9 Recommendation

That members determine the application taking into account representations received.

List of Background Papers

Application for premises licence.

Officer Contact

J Sullivan – Principal Officer – Licensing

Tel: (01639) 686326 e-mail: j.sullivan@npt.gov.uk

Wards Affected

Tonna