

**LICENSING (2003 ACT) SUB COMMITTEE**

**12<sup>th</sup> September 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-120905-REP-FS-CJ**

<b>SECTION A – MATTERS FOR DECISION</b>		
<b>Report Item</b>	<b>Page Nos</b>	<b>Wards Affected</b>
<b>1. Licensing Act 2003 Premises Licence Applications</b>		
Ref.No.: 002003 Premises Name: Paradise Nightclub Premises Address: Works Road, Pontardawe, Swansea, SA8 4AF	1-15	Pontardawe

**1.1. Licence Application for Transitional Premises Licence with variation**

Ref.No.:	002003	Wards	Pontardawe
		Affected:	
Premises Name:	Paradise Nightclub		
Premises Address:	Works Road, Pontardawe, Swansea, SA8 4AF		
Applicant Name:	Enterbizz Ltd		
Applicant Address:	63-65 Hanbury Road, Bargoed, Mid Glamorgan, CF8 8QX		
DPS Name:	Mr Leighton Thomas		
DPS Address:	11 Heol Cwm Ifor, Caerphilly, CF83 2EU		
Application Date:	13/07/2005		

**1.2. Conversion Application**

The premises have traded as a nightclub for many years and are entitled to a premises licence for the sale of alcohol with the previous permitted hours becoming conditions of the new licence. The relevant licensable activities are presently:-

The Sale of Alcohol    Monday - Saturday    10:00am - 11:00pm  
    Sunday                        Noon - 10:30pm  
    (on and off premises)

Section 77                        Monday – Saturday       12.00 – 02.00  
 Special Hours Certificate Sunday                                        12.00 – 00.30  
    Sundays prior to Bank Holiday (except  
    Easter Monday)                                        12.00 – 02.00

Public Entertainment Licence Monday - Saturday Noon - 02:00  
    Sunday                        Noon - 02:30  
    Sundays prior to       Noon - 02:00  
    Bank Holiday (except Easter)

Permitted Numbers	Dancing & Restaurant	700
	Conferences etc	730

Conditions                      No music/dancing in the licensed premises after midnight, on Monday Thursday, nor beyond the hours 24:00 midnight on any other Sunday unless there is in force Special Hours Certificate.

The above are subject to the provisions and restrictions of the Licensing Act 1964, and the Local Government (Miscellaneous Provisions) Act 1982 and standard licence conditions.

### **1.3. Variation Application**

The applicant also seeks to extend the licensable activities as follows:-

Supply of Alcohol:

Monday to Sunday 12.00 - 6.00

Opening Hours:

Monday to Sunday 12.00 - 06.00

Live Music:

Monday to Sunday 12.00 - 6.00

Recorded Music - times as above

Performance of Dance - times as above

Activity like Music/Dance - times as above

Facilities for Making Music - times as above

Facilities for Dance - times as above

Facility like Music/Dance - times as above

Late Night Refreshment:

Monday to Sunday 23.00 - 6.00

The applicant also seeks to remove the following restrictions:-

Hours of admittance

Christmas Eve and Good Friday operating hours.

#### **1.4. Background Information**

The Paradise Nightclub has a Public Entertainment Licence.

Monday – Saturday 12:00 noon - 02:00am

Sunday 12:00 noon - 12:30am

Bank Holidays 12:00 noon - 02:00am

Entrance to the club is from a public car park. At rear of the club are commercial properties i.e. garages.

#### **1.5. Promotion of Licensing Objectives**

The following information has been provided by the applicant:

General - all four licensing objectives:

##### **The Prevention of Crime & Disorder**

To ensure that at all times there will be an effective and responsible manager on duty on the premises when it is open for licensable activities.

To ensure that all staff are trained.

To ensure all staff are properly supervised.

To organise the layout and location of various pieces of equipment within the premises so that the equipment can be properly monitored and where necessary, properly controlled e.g. cash registers away from patrons and gaming machines within view of the staff.

To ensure that staffing levels are adequate to maintain a safe environment.

To ensure that all staff are aware that those who are heavily intoxicated or disorderly are to be managed in such a way that they will not be a harm to staff, patrons or themselves.

To participate in schemes, which are designed to maintain and improve the licensing objectives.

To ensure that all members of staff are vigilant to prevent the use or supply of illegal drugs.

To ensure that all staff are mindful of the problems of under age drinking and when in doubt to request age identification by reference to a driving licence or passport.

To maintain a similar policy to the above paragraph with regard to the sale of tobacco.

To ensure that staff prevent glasses and bottles being brought into or out of the premises by patrons.

To ensure that there is a provision for regular collection of glass and bottles.

To ensure that where the consumption of alcohol is likely to be open air that consideration is given to the use of toughened plastic vessels.

To ensure that all staff will report to the relevant authorities (the police and the Council) anyone dealing with illegal drugs or where illegal drugs are found on the premises.

To ensure that staff do not permit entry or where they have entered shall not serve anybody who is heavily intoxicated or seems to be under the influence of drugs.

To reserve the right to search patrons on entry to the premises.

To provide notices as appropriate in connection with underage drinking.

To ensure that all members of staff are mindful of the above objectives, not only with regard to the licensable premises but also to consider those who work or live within the vicinity of the premises or are passing by.

### Public Safety

To ensure that the premises does not become overcrowded.

To ensure that means of escape in the event of a fire or other

emergencies are always kept clear.

To ensure that staff are informed about safe evacuation procedures.

To ensure that the disabled or infirm are able to evacuate the premises.

To provide sufficient number of people employed or engaged to secure the safety of the premises and its patrons.

To provide where appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons including the disabled or infirm.

To ensure that all appliances and systems pertinent to safety are tested on a regular basis that a written record of the tests are kept and will be available to all relevant authorities.

The provision of effective CCTV in and around the premises.

To provide toughened or plastic drinking vessels if Patrons (where appropriate) consume drink outside the premises.

### The Prevention of Public Nuisance

To ensure that noise from amplified music does not have an adverse impact on those living or working in the vicinity of the premises e.g. closing windows and doors.

To ensure that staff are made aware of the steps that are taken should there be any disorderly conduct on the premises e.g. to ask disorderly persons to leave but at the same time alert the relevant authorities.

To ensure that patrons arriving and leaving by taxi and minibuses are reminded that they should do so without disturbing the residents and those who work in the vicinity of the premises and so might suggest that they avoid using horns etc.

To consider whether any light pollution is caused by lighting appliances at the premises and if so, to minimise light pollution.

To ensure that any refuse is stored and disposed of appropriately.

To be mindful of those who live and work in the vicinity when disposing of empty bottles or when deliveries are made.

To remind staff to minimise noise when leaving the premises, Particularly if it is late at night or in the early hours of the morning.

To take appropriate steps to avoid any noxious smells.

### The Protection of Children from Harm

To ensure that staff are aware that it is prohibited to sell alcohol to children.

To ensure that staff are aware that it is prohibited to sell tobacco to children.

To ensure that any child on the premises is accompanied by a responsible adult.

Where films or television are available, to ensure if children are in the premises that the films are in accordance with the recommendations of the British Board of Film Classification.

To request proof of age where there is any doubt as to the age of anyone at the premises.

To display restrictions on the admission of children and the sale of alcohol and tobaccos.

## **1.6. Relevant Representations**

### **Responsible Authorities Representations**

#### Police

See Appendix 3.

#### Environmental Health

See Appendix 4.

## Interested Parties Representations

No representations.

### **1.7. Policy Considerations**

It is considered that the following policies are relevant to this application:

#### Statement of Licensing Policy

##### **6.0 *Crime & Disorder***

6.6 *In addition to the requirements that the Council promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the County Borough. The council is required therefore to have particular regard to the likely impact of licensing on crime and disorder. The nature or type of premises, its location, the hours of operation, its impact on the area, the operation and management of premises are all significant factors, which can impact on crime and disorder. All applications for licences or certificates including renewals and variations will be expected to have addressed these matters within the operating schedule.*

6.7 *The Council will also take account of relevant strategies, and action plans as appropriate. These may include:*

*(a) The Neath Port Talbot Community Plan/Community Safety Strategy.*

*(b) Safer Clubbing*

*(c) Best Practice on Test Purchasing with a view to specifying conditions and or making requirements for premises.*

*(d) National alcohol harm reduction strategy*

*(e) Voluntary codes of practice relating to drinks promotion, drugs etc.*

*Applicants will need therefore to have given consideration to these matters in their operating schedule dependent on the style and characteristics of the premises/events.*

6.8 *The Council will consider attaching conditions to licences and*



*permissions to deter and prevent crime and disorder, both inside and immediately outside the premises. These will include conditions drawn from the model pool of conditions relating to Crime and Disorder at Appendix 1 and any other conditions it considers appropriate.*

- 6.9 *The Council considers that certain types of premises are likely to require additional measures or conditions due to the nature, type and mode of operation. These would include premises, which sell alcohol and cater mainly for the 16-25 age group and provide regulated entertainment, or premises which provide events or entertainment mainly for children.*

*In order to ensure the safety of patrons and other persons in the vicinity of the premises, the council suggests that operating schedules give consideration to the following measures and may require any or all of these measures to be implemented in the interests of minimising crime and disorder.*

*(i) Door Supervisors*

*The need for door supervisors is normally a matter, which is considered and determined by the applicant within the operating schedule. However, where an applicant has made no provision for providing door supervisors, but it is considered that they are essential to meet the crime and disorder or public safety objective the council may specify that the premises must provide registered door supervisors. The council may also require a duty log / register of door supervisors be kept for the premises. Where door supervisors are provided they must be licensed by the Security Industry Authority. Generally one door supervisor per 100 persons would be required to be present on the premises. However, additional supervisors may be necessary in certain situation, e.g. where there is a significant number of very young persons, or where there is a potential for boisterous or excitable behaviour, e.g. stag nights; football matches; celebrity visits. Applicants are advised to give consideration to these matters within the operating schedule as well as the days and hours of operation of the door supervisors.*

*(ii) CCTV*

*The provision of CCTV is a very useful tool in monitoring*

*premises to assist in ensuring the safety of patrons and preventing crime and disorder. The council may specify that a suitable system approved by the police and council, covering the interior and exterior of the premises, is installed. This should be properly maintained and fully operational whilst the premises are open. The areas to be covered should normally be entrances, both external and internal and any part of the premises not routinely under visual supervision including beer gardens. CCTV tapes should be kept for twenty-eight days and made available to the police and local authority officers at any time.*

*(iii) Glasses/Bottles*

*Applicants should, where appropriate be able to demonstrate that they have adequate procedures in place to prevent glasses and bottles being brought into or out of the premises, and there is provision for regular collection of glasses and bottles. The use of toughened drinking vessels and plastic bottles should be considered. Where the consumption of alcohol is likely to be in the open air, e.g. in beer gardens or outside events, toughened or plastic vessels should be used.*

**7.0 Public Safety**

7.5 *Certain types of premises, due to the nature of activities being provided, may give rise to a significant risk if occupancy numbers are not set. The council following representations will consider setting occupancy limits particularly in respect of the following types of premises:*

*(i) night clubs/public houses providing regulated entertainment*

*(ii) theatres*

*(iii) cinemas*

*(iv) any other premises where the authority is satisfied that the nature and operation of the premises is such that it requires regulation of numbers at the premises.*

7.6 *The council following representations may also impose occupancy limits when it considers it appropriate for other reasons, e.g. to minimise crime and disorder.*

**8.0 Prevention of Public Nuisance**

8.3 *The Council may require applicants for premises licences to provide documented noise assessments with a view to minimizing noise nuisance.*

- 8.4 *Noise from amplified music is a common source of disturbance. In order to minimise the impact in the vicinity, the licensing authority may require a range of measures to be taken. These may include the installation of soundproofing, air conditioning, acoustic and sound limitation devices.*
- 8.5 *In premises where regulated entertainment is provided, the licensing authority will require a documented noise assessment for the premises, which must indicate whether there is likely to be any nuisance or disturbance to the local community, and if so, what measures are to be implemented to prevent this.*
- 8.6 *The licensing authority may at its discretion waive the requirement for a noise assessment where it can be demonstrated that the nature, type or location of the premises is such that the likelihood of nuisance arising is negligible.*

## **9.0 *Protection of Children from Harm***

### **9.6 *The Council may attach conditions:***

- *To limit the hours that children may be present*
- *To restrict the age of persons on the premises*
- *To exclude or limit children when certain activities are taking place.*
- *To require that children are accompanied by an adult*
- *Excluding persons under 18, when any licensable activities are taking place.*
- *Requiring the production of proof of age cards, or other age identification where alcohol is sold.*
- *Requiring the display of any restrictions on the admission of children, on or immediately outside the premises.*

*The council may also consider imposing restrictions on different ages at different times. They may be applied generally or relate only to specific events or activities, e.g. the televising of a major football or rugby match.*

## Secretary of State's Guidance

### **7.0 Crime & Disorder**

7.27 *Some conditions primarily focused on the prevention of crime and disorder will also promote other licensing objectives. For example, a condition requiring that all glasses used on the premises for the sale of alcoholic drinks should be made of plastic or toughened glass or not allowing bottles to pass across a bar may be necessary to prevent violence where such activity is likely to occur, by denying assailants suitable weapons, but may also benefit public safety by minimising the injury done to victims when such assaults take place (for example, facial injuries resulting from broken glass). A condition must also be capable of being met, for example, while beer glasses may be available in toughened glass, wine glasses may not. Conditions of this kind therefore need careful consideration to ensure that they are not only necessary but both practical and achievable. Similarly, although most commonly made a condition of a licence on public safety grounds, consideration can also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.*

### **7.0 Public Safety**

7.34 *“Safe capacities” should only be imposed where necessary for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a fire certificate for certain premises includes certain conditions, it would be unnecessary to reproduce them in a premises licence. Indeed, it would be wrong to lay down conditions which produce conflict with other legal requirements. However, if the fire certificate has been granted for premises when their future use for a licensable activity was not known, the fire authority may consider it necessary for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. In considering the representations, licensing authorities should give particular weight to those made by the fire authority in such circumstances. Capacities attached to premises licences or club premises certificates may in certain circumstances be necessary in*

*preventing disorder, as overcrowded venues can increase the risks of disorder as crowds become frustrated and hostile.*

## **7.0 Public Nuisance**

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.*

## **7.0 Protection of Children from Harm**

7.51 *It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. Such trading practices should be obvious from the operating schedule or club operating schedule provided with the relevant application allowing the framing of an*

*appropriate, time-limited condition. Similarly, gambling may take place in part of a leisure centre but not in other parts of those premises. This means that the access of children will need to be carefully considered by applicants, licensing authorities and responsible authorities. In many respects, it should be possible to rely on the discretion and common sense of licence and certificate holders. However, licensing authorities and responsible authorities should still expect applicants when preparing an operating schedule or club operating schedule to state their intention to exercise such discretion and where they are necessary, to set out the steps to be taken to protect children from harm when on the premises.*

7.52 *Conditions, where they are necessary, should reflect the licensable activities taking place on the premises and can include:*

- *where alcohol is sold, requirements for the production of proof of age cards or other age identification before sales are made to individuals under 18 years (be the age limit 18 or 16 as in the case of the consumption of beer, wine and cider in the company of adults during a table meal);*
- *limitations on the hours when children may be present;*
- *limitations on the presence of children under certain ages when particular specified activities are taking place;*
- *limitations on the parts of the premises to which children may have access;*  
*age limitations (below 18);*
- *limitations or exclusions when certain activities are taking place;*  
*requirements for accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and full exclusion of people under 18 from the premises when any licensable activities are taking place.*

## **1.8. Officer's Report**

The representations of the police relate to all of the licensing objectives. The primary concern appears to be the operating hours. The police and also the environmental health officer suggest that disturbance of residents is likely to occur.

The other matters raised, can be dealt with by the attachment of conditions as appropriate.

**1.9. Recommendation**

That members determine the application after taking into account the representations received.

**List of Background Papers**

Application for Premises Licence

**Officer Contact**

J Sullivan Principal Officer Licensing

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**Wards Affected**

Pontardawe