

**LICENSING (2003 ACT) SUB COMMITTEE**

**14<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-140905-REP-FS-CJ**

<b>SECTION A – MATTERS FOR DECISION</b>		
<b>1 Licensing Act 2003 Premises Licence Applications</b>		
Ref.No.: 001515 Premises Name: Royal Oak Inn Premises Address: Henfaes Road, Tonna, Neath, SA11 3EZ	<b>2 - 7</b>	Tonna
Ref.No.: 002152 Premises Name: The Cambrian Arms Premises Address: 49 Briton Ferry Road, Neath, West Glamorgan, SA11 1AR	<b>8 - 11</b>	Neath East

## **1.1 Transitional Premises Licence Application**

Ref.No.: 001515 Wards Tonna  
Affected:

Premises Name: Royal Oak Inn  
Premises Address: Henfaes Road, Tonna, Neath, SA11 3EZ

Applicant Name: Mr Garry Morgan  
Applicant Address: Henfaes Road, Tonna, Neath, SA11 3EZ

DPS Name: Mr Garry Morgan  
DPS Address: Henfaes Road, Tonna, Neath, SA11 3EZ

Application Date: 13/05/2005

## **1.2 Conversion Application**

The premises have traded as a public house for many years without conditions 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:-

Sale of alcohol Monday – Saturday	10.00 – 23.00
Sunday	Noon – 22.30

(on and off Sales)

## **1.3 Variation Application**

The application seeks to extend the licensing activities as follows:-

Supply of Alcohol Monday – Sunday	11.00 – 02.00
Hours premise open to the public Monday – Sunday	11.00 – 02.30
Indoor Sporting Event Monday – Sunday	11.00 – 02.00
Live music Monday – Sunday	11.30 – 02.00

(outside music to cease at 23.30)

Recorded music Monday – Sunday	11.00 – 02.00 (outside music to cease at 23.30)
Anything of a similar description Monday – Sunday	11.00 – 02.00
Provision of facilities for dancing Monday – Sunday	11.30 – 02.00
Late Night Refreshment Monday – Sunday	23.00 – 02.00

#### **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 and prevent use of drugs and notify authorities where illegal substances are identified.

Provide signage in respect of underage drinking.

To participate in any schemes to support licensing objectives.

##### Public Safety

Ensure safe evacuation from premises especially disabled persons.

Provide plastic glasses for outside drinking when appropriate.

##### Prevention of Public Nuisance

Curtains to be closed at 23.00 so as not to upset neighbours with the light.

At closing time ensure all bottles and rubbish is disposed of quietly.

### The Prevention of Children from Harm

To display signs advising of the restrictions in respect of the sale of alcohol and tobacco to children.

## **1.6 Relevant Representations**

Responsible Authorities

Police

See Appendix 1

Environmental Health

See Appendix 2

### **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.*

*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 Report**

The representations relate mainly to the prevention of public nuisance, and the concerns of both the police and Environmental Health Officer are that there is likely to be nuisance from music and social disturbance to residents.

The area is residential and it is questionable as to whether the hours sought are appropriate for this location. Members will need to consider this issue and also whether relevant conditions to minimise any nuisance or social disturbance are appropriate.

## **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





## **2.4 Background Information**

The premises are located on the main road between Neath and Briton Ferry. The area is a mixture of commercial and residential properties.

## **2.5 Promotion of Licensing Objectives**

The following information has been provided by the applicant:

### The Prevention of Crime & Disorder:

All customer-drinking areas are covered by 24 hour CCTV. The tapes are kept for 14 days then used again.

No glasses or bottles are allowed off the premises if purchased for indoor use.

We refuse drink and abusive customers and ask them to leave the premises.

Staff are looking for customers trying to pass drugs and substances around on the premises.

If customers look underage they are refused then asked for proof of I.D. If no proof then asked to leave.

### Public Safety:

Fire fighting equipment is tested regularly twice yearly or otherwise used.

Emergency lighting is checked as well.

Premises are not overcrowded.

### The Prevention of Public Nuisance:

Close all windows and doors when music is playing and reduce amplication of music at 23.00 to respect neighbours.

### The Protection of Children from Harm:

Notice displaying underage drinking. Validation of age will be required if needed.

Children only allowed until a certain time.

## **2.6 Relevant Representations:**

### **Responsible Authorities Representations**

Environmental health  
Appendix 3

### **Interested Parties Representations**

No representations

## **2.7 Policy Considerations**

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

### **Statement of Licensing Policy**

#### **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 minimising 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.*

### *Secretary of States Guidance*

#### ***Prevention of 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*

## **2.8 Officer's Report**

The environmental health officer expresses concern at the hours requested for provision of musical entertainment, and the operating hours.

Restrictions are recommended by the Environmental Health Officer due to the location of the premises.

## **2.9 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

Tel (01639) 686326

### **Wards affected**

Neath East