

LICENSING (2003 ACT) SUB COMMITTEE

15th August 2005

DIRECTORATE OF FINANCE AND CORPORATE SERVICES

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

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1 Licensing Act 2003 Premises Licence Applications		
Ref.No.: 001751 Premises Name: The Amazon Premises Address: Parry Road, Sandfields, Port Talbot, SA12 7TR	2 - 12	Sandfields West

1.1. Licence Application for Transitional Premises Licence

Ref.No.: 001751 Wards Sandfields West
Affected:

Premises Name: The Amazon
Premises Parry Road, Sandfields, Port Talbot, SA12 7TR
Address:

Applicant Name: Mr Kenneth James O'Keefe
Applicant 3 Crimson Avenue, Port Talbot, West Glamorgan, SA12 7RE
Address:

DPS Name: Mr Kenneth James O'Keefe
DPS Address: 3 Crimson Avenue, Port Talbot, West Glamorgan, SA12 7RE
Application 16/06/2005
Date:

1.1 Conversion Application

The premises have traded as a Public House for many years, and are entitled to a Premise Licence in respect of the existing licences and conditions.

The relevant licensable activities are presently:-

The Sale of alcohol Monday to Saturday 10.00am - 11.00pm
Sunday Noon - 10.30pm
(on and off premises)

The above are subject to the provisions and restrictions of the Licensing Act 1964.

1.2 Variation Application

Supply of Alcohol:

Monday to Thursday 10:00 00:00

Friday & Saturday 10:00 01:00

Sunday 10:00 00:00

Non-standard Timings:

10:00 New Years Eve - 23:00 New Years Day.

10:00 - 01:00 on Friday, Saturday, Sunday and Monday on Bank Holiday weekends, Christmas Eve and Boxing Day.

10:00 - 01:00 on up to (30) other event days per annum, at my discretion.

Opening Hours:

Monday to Thursday 08:00 00:30

Friday & Saturday 08:00 01:30

Sunday 08:00 00:30

Non-standard Timings:

Trading hours may be extended on Bank Holidays and "Event Days" in line with any extension granted.

Films:

Monday to Thursday 10:00 00:00

Friday and Saturday 10:00 01:00

Sunday 10:00 00:00

Non-standard Timings:

When hours for sale of alcohol are extended on Bank Hoildays and "Event Days", these hours are also extended in line with the same.

Indoor Sports:

Times as above

Non-standard Timings:

When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended in line with the same.

Live Music:

Monday to Sunday 19:00 23:00

Non-standard Timings:

When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended in line with the same.

Recorded Music:

Monday to Sunday 10:00 00:00

Non-standard Timings:

When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended in line with the same.

Activity like Music/Dance:

Monday to Sunday 19:00 23:00

Non-standard Timings:

When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended in line with the same.

Late Night Refreshment:

Monday to Thursday 23:00 00:30

Friday & Saturday 23:00 01:30

Sunday 23:00 00:30

Non-standard Timings:

When hours for sale of alcohol are extended on Bank Holidays and "Event Days", these hours are also extended in line with the same.

The applicant has also requested that all embedded restrictions in the Licensing Act 1964 Children & Young Persons Act 1933 and the Cinematograph (Safety) Regulations 1955 be removed.

1.3 Background Information

The premises is situated on one floor in Parry Road Port Talbot in a predominantly residential area. There is a very small shopping area within 200 yards of the premises.

There are two other licensed premises within approximately half a mile.

The premises serves food between the hours of 12.00 - 19.00 seven days a week. There is at present a large outside area but at present no beer garden or function room at the premises. It is proposed to use the outside area as a beer garden.

There are no direct transport links. The nearest bus service runs along Western Avenue approximately half a mile from the premises.

1.4 Promotion of Licensing Objectives

The following information has been provided by the applicant:

General - all four licensing objectives:

The types of regulated entertainments proposed re-instate and then enhance the normal pub entertainments that were previously unregulated with the benefit to enhance the local facilities for social entertainment and reduce the focus on alcohol.

Staff will be trained on the requirements of the Licensing Act 2003 when they are recruited and given training in "drugs awareness" as part of their induction.

No new steps have been identified by risk assessment in relation to the four licensing objectives except as below.

I have considered the terms of your local licensing policy in preparing this application.

The Prevention Of Crime & Disorder:

Providing a 30 minute extension of opening hours after the end of sale

of alcohol will promote this objective as the last drink will be consumed less quickly with access to the pubs toilet facilities and the provision of non-alcoholic refreshment during this period.

No entry or re-entry after 23.00 Sunday - Thursday and 00.00 Friday - Saturday

A personal licence holder will be present on the premises whenever they are trading.

The DPS will be a member of the local pubwatch so long as it exists.

Not less than five working days written notice will be provided to police if required when "Events Days" are planned.

Public safety:

Function bookings will be limited to 70 persons.
(On certain occasions the risk assessment indicated a risk of crowding and on those occasions the capacity of the premises (including staff and performers) is not to exceed 80. At such times the DPS will agree in advance with the police the most effective means for control of numbers and behaviour depending on the circumstances).

The Prevention Of Public Nuisance:

Live music will end at 23:00 except on New Years Eve and New Years Day.

Live or recorded music in the garden will end at or before 23:00.

Recorded music indoors will end at 00:00 except on New Years Eve and New Years Day.

Recorded music volume will be reduced to background level during the wind down period to create a mood change.

All windows will be kept closed after 22:00.

The garden will be closed at or before 22:30.

A notice will be placed prominently at the exits asking customers to leave quietly.

The Protection Of Children From Harm:

The restrictions set out in the Licensing Act 2003 will apply

Photographic proof of age will be required to be shown by anyone seeking to purchase alcohol who appears to be under 20 years of age.

No unusual risks of harm to children have been identified.

1.5 Relevant Representations:

Responsible Authorities Representations

Police

1. Page 8, item 2, to allow the sale of intoxicants until 1 am on up to 30 occasions per year at the discretion of the premises supervisor. This clearly by-passes the Temporary Event Notice System. There is no right of refusal for any party under this application, which the TEN system affords. How can any authority be sure the licensing objectives are promoted when these occasions are on undetermined occasions.
2. Page 8, item 6, which restrictions are going to be removed specifically? The removal of some may contradict the licensing objectives.
3. Live music is requested until 11pm for each day of the week, both indoors and outdoors. Given that the premises is located in a residential area (see page 3, part A3), and there is a large outdoor area indicated on the plan, this will contravene the objective of preventing public nuisance.
4. Page 21, late night refreshment requested until 1:30 am on Saturday and Sunday. This contradicts the details given in the variation details on page 8 item 2. I would request that the advert placed in the newspaper and on the premises be produced to check the details as the notices may not be appropriate. These times do not appear appropriate given their location.
5. Page 22, supply of alcohol until 1am on Saturday and Sunday again contradicts page 8, item 2. This does not seem appropriate given the location of the premises. The general times appear to give rise to the possibility of causing public nuisance due to social disturbance by means of their location.
6. Paragraph Q, item c, public safety, function bookings will be limited to 70 persons. Should this be set as the capacity for the premises at all times

if it has been identified as a safe limit? On certain occasions the capacity will not exceed 80 persons, and effective means of control will be agreed with police - on which occasions, the responsibility for safety is one of the objectives which the DPS must promote. These additional steps will be transferred into conditions of the licence, how can this be made into a condition?

7. Paragraph Q, item d, live or recorded music will end in the garden at or before 11pm. Paragraph F which relates to recorded music relates to indoors only. This is a contradiction, and in any event, in a residential area, will this contradict the objective of public nuisance. The paragraph goes on to state the garden will be closed at or before 10:30pm, does this mean the music will be played for 30 minutes when no-one is there, as it is scheduled to end at 11pm in the same location?
3. The very location of these premises, their close proximity to residential properties, and the late hours requested in certain parts of the application will increase the potential for social disturbance.

Environmental Health

1. The application requires live music to be played up until 23 :00 both inside and outside of the premises. Because the premises have noise sensitive residential properties on all sides I believe that to have live music outside of the premises will cause noise disturbance to local residents. For this reason I recommend that no music should be played outside of the main building.
2. There is a history of sporadic complaints of noise disturbance from this property mainly caused by fire doors being left open during times when amplified music is being played. The applicant states that windows and doors will be closed after 22:00 but bearing in mind the close proximity of housing I recommend that the windows and doors are closed at all times when live music is being played and at 22:00 when only recorded music is used. .
3. Some clarification is needed as to what is meant in section I - provision of facilities for making music - applicant claims that the Microphone, DJ Console and musical Instruments on the stage area will be used as needed at any time during opening hours. I recommend that the limitations on the times for live and recorded music apply to these pieces of equipment.

Fire Officer

On considering the documentation supplied regarding the above application, the Fire Authority are of the opinion that insufficient information has been Provided to determine whether the Licensing objective of Public Safety-has

been adequately addressed, Unless all documentation is provided as required within the Licensing Act 2003 (Transitional provisions) Order 2005, the Licensing Authority may reject-your application.

You should therefore re-submit a complete application, operating schedule and plan to the above address in order that this matter may be progressed.

Planning

In each of these cases there is a planning conditions restricting either public access and/or delivery periods.

Accordingly, I must register objections to the above licensing applications based on the relevant planning conditions, which aim to protect public amenity and avoid public nuisance.

Interested Parties Representations

See Representations attached at appendix 1.

1.6 Policy Considerations

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

Statement of Licensing Policy

8.0 Prevention of Public Nuisance

- 8.1 *Licensed premises, especially those operating late at night and in the early hours of the morning can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises. The council wishes to maintain and protect the amenity of residents and businesses from potential consequence of the operation of licensed premises. However it also recognises the economic, social, and cultural importance that such premises provide, and will endeavour to ensure that a reasonable balance is maintained.*
- 8.2 *The Council will expect operating schedules to demonstrate that suitable and sufficient measures have been identified, and will be implemented and maintained to prevent public nuisance. The extent and nature of these measures will be determined by the style and characteristics of the premises and events.*
- 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.*

7.0 Public Safety

- 7.2 *Each of these types of premises present a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks. The council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.*
- 7.3 *The Council requires that operating schedules demonstrate that suitable and sufficient measures are in place to ensure public safety, appropriate to the individual style and characteristics of the premises and events. Matters which should be considered by the applicant include:*
- *The occupancy capacity of the premises*
 - *The age, design and layout of the premises, including means of escape in the event of fire or other emergency, including provision for the safe evacuation of disabled or infirm persons.*
 - *The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature*
 - *The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if*

different)

- *Customer profile (e.g. age, disability)*
- *The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines etc.*

7.4 *The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:*

- *Suitable and sufficient risk assessments*
- *Effective and responsible management of premises both within and in the vicinity of the premises.*
- *Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons*
- *Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and all patrons including the disabled and infirm.*
- *Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA BS 5588 part 8 means of escape for disabled persons).*
- *Provision of effective CCTV in and around premises*
- *Provision of toughened or plastic drinking vessels*
- *Implementation of crowd management measures*
- *Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to 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.*

Secretary of States Guidance

The following sections are considered relevant to the application:-

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.*

1.7 Officer's Report

There are two significant issues in respect of this application public safety and prevention of public nuisance. With regard to public safety the Fire Officer has indicated that insufficient information has been provided. If this has not been rectified then it is submitted that the application will need to be declared invalid or it should be considered for refusal.

The public nuisance representations are very significant due to the location of the premises. Members will need to consider whether the

concerns can be addressed by specific noise conditions or by restriction of hours or if appropriate rejection of the application.

1.8 Recommendation

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

List of Background Papers

Application for premises licence

Officer Contact

J Sullivan Principal Officer Licensing

Tel (01639) 686326 email j.sullivan@npt.gov.uk

Wards Affected

Sandfields West