

**Neath Port Talbot County Borough Council
Cyngor Bwrdeistref Sirol Castell-nedd**

**Democratic Services
Gwasanaethau Democrataidd**

Chief Executive: K.Jones

Date: 14th October 2022

Dear Member,

**LICENSING AND GAMBLING ACTS SUB COMMITTEE - MONDAY, 17TH
OCTOBER, 2022**

Please find attached the following addendum supplement item for consideration at the next meeting of the **Licensing and Gambling Acts Sub Committee - Monday, 17th October, 2022.**

Item

6. **Environmental Health Statement** (Pages 3 - 6)

Yours sincerely

S McCluskie

p.p Chief Executive

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The Corner House, Neath Committee Hearing 17/10/2022

The application requests a full variation of the premises licence permitting amplified music outdoors in the form of a DJ until 01:00am on one day a week, either Friday, Saturday, or Sunday.

In response to this application, the local authority's environmental health department submitted the following:

“In accordance with the four licensing objectives, I have concerns regarding the variation for the reasons stated below:

The prevention of public nuisance:

The reduced background noise levels during nighttime hours make it more likely that amplified music will cause a disturbance. Noise sensitive receptors are at greater risk of disturbance due to the reduced background levels after 23:00pm.

Allowing amplified music outdoors past the current licensable hours increases the likelihood of noise outbreak causing a disturbance to nearby sensitive receptors. “

When considering any matter regarding a premises licence, the four licensing objectives must be considered. In this instance, it is important to note that the category “prevention of public nuisance” emphasises prevention, not tackling existing nuisance. With this in mind, I have further outlined the reasons for my representation below, in accordance with best practice guidance.

The Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs (2003) provides guidance for the assessment and control of noise affecting noise-sensitive properties. This guidance considers noise from a number of sources, including amplified music.

I have summarized the document's key points in relation to this application below:

- Amplified and non-amplified music are a common source of noise disturbance arising from pub, clubs, etc.
- For premises where entertainment takes place on a regular basis, music and associated sources should not be audible inside noise-sensitive property at any time.
- For premises where entertainment takes place less frequently, music and associated sources should not be audible inside noise-sensitive property between 23:00 and 07:00 hours.
- The levels of noise emanating from sources outside of buildings can often be high because there is no building envelope to attenuate the sound. Beer gardens and marquees are cited as typical examples.

According to the most recent council tax records, there are 13 nearby residential premises on Croft Road, Neath. Furthermore, there are two nearby hotels, The Castle and The Ambassador, which constitute further receptors. With this in mind, there is a clear risk of sensitive receptors being subject to noise nuisance arising from the provisions of this application.

The authority's noise complaint records demonstrate the last complaint about the Corner House was in 2019. In contrast to other licensed premises, this is a low number of complaints. However, it is worth noting that this complaint was in relation to music from an outdoor DJ.

The applicant has suggested the following controls as measures to prevent potential nuisance:

"- There will only be access to the beer garden from the front, there will be door security positioned on the gate to ensure no entry

- Customers will be permitted to leave via this exit and all numbers will be communicated to the front door team to ensure we do not go over our capacity

- There is a pagoda structure in the garden, this is where the DJ will be based with speakers facing the outdoor kiosk which is located away from the road and this will help subdue the music

- There will be frequent checks to ensure the music is not too loud, this will be done every 45 mins and will be done by a manager/supervisor who will physically stand in the garden and listen to the music and act accordingly if needed

- We can also use a decibel reader and record the output every 45 mins and make a record of this if needed

- The DJ is fully aware that the music cannot be loud after 11pm and will work with us to ensure this happens, he understands he is paid to DJ and if his volume is too loud and there are complaints, we will have to stop the sessions and he will not be paid

After 11pm the music will be reduced to 80db"

In the interest of reasonableness and proportionality, I have considered these as potential control measures and their viability in mitigating the risk to public nuisance. I do not believe these controls are suitable to prevent public nuisance and have summarized the reasons why below:

There has been no noise impact assessment submitted as part of this application, and therefore nothing to demonstrate that amplified music from the DJ will not cause a nuisance to nearby sensitive receptors. There is also a lack of technical detail regarding the proposed controls e.g. the position of monitoring locations, the weighting of sound measurements, the standard of the noise monitors, the duration of measurements, the content of measurements, etc.

As outlined on the previous page, there is a risk of nuisance arising from amplified music. It is not that the music should not be loud after 23:00 hours: It is that the music cannot be audible at nearby sensitive receptors. This includes during the summer where residents may be more inclined to sleep with their windows open. I do not know where the figure of 80dB has been derived from but, in my professional opinion, this would be too loud after 23:00 hours. The Control of Noise at Work Regulations (2005) outlines that employers must assess the risk to worker's health in workplaces with a noise level of 80dB (A) or greater, and consider appropriate hearing protection. This figure does not relate directly to this scenario, however I have added it to allow members to contextualize how loud 80 dB is. Furthermore, the decibel level is not the only aspect of noise that may cause a nuisance. The frequency of the sound can also contribute to noise constituting a nuisance at nearby receptors.

When hosting inside the premises structure there is a level of attenuation afforded by the structure itself, further supplemented by licence conditions beyond 11:00 hours. This structural attenuation allows licensed premises to continue creating noise at a level that would otherwise cause a nuisance at nearby receptors, and becomes increasingly more important as background noise levels decrease throughout the night. In reference to the pagoda, there has been no assessment of the pagoda as part of this application and therefore no evidence to support the idea that the structure would attenuate the noise. While this could be the case, it could equally be true that this structure would amplify the noise rather than attenuate it.

Theoretically, a comprehensive noise impact assessment could inform the sound levels and attenuation necessary in order to prevent a nuisance to nearby sensitive receptors. However, I expect that the decibel level required would likely be so low as to make the proposal impractical.

In summary, the reduced background noise levels after 11:00 hours increases the risk of amplified music causing a nuisance to nearby sensitive receptors. Best practice guidance outlines that the noise emanating from the premises should not be audible in noise-sensitive properties beyond 11:00 hours. There are several noise sensitive receptors in close proximity to the premises. Without the additional attenuation afforded by the building structure, it is unlikely that amplified sound could be adequately controlled as to prevent a nuisance to nearby sensitive receptors. In the absence of a comprehensive noise impact assessment, there is no way to determine what controls would be sufficient to prevent public nuisance in this setting. Furthermore, as the proposed change introduces the provision of amplified music emanating from outdoors after 11:00 hours, in close proximity to nearby noise sensitive receptors, it is likely that the restrictions required to prevent public nuisance will be so impractical as to render the proposed changes unfeasible.

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