

Public

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

**Democratic Services**  
**Gwasanaethau Democrataidd**

**Chief Executive:** K.Jones

**Date:** 21<sup>st</sup> September 2023

Dear Member,

**LICENSING AND GAMBLING ACTS SUB COMMITTEE - FRIDAY, 22ND  
SEPTEMBER, 2023**

Please find attached the following supplement items for consideration at the next meeting of the **Licensing and Gambling Acts Sub Committee - Friday, 22nd September, 2023.**

**Item**

5. **The Surge Cafe Bar - Supplement Item (Pages 1 - 66)**

Yours sincerely

S. McCluskie

p.p Chief Executive

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Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

Date Dyddiad 4<sup>th</sup> June 2021  
Direct line Rhif ffôn 01639 686521  
Email Ebost l.morgan7@npt.gov.uk  
Contact Cyswllt Leah Morgan  
Your ref Eich cyf  
Our ref Ein cyf LCL/

By email

Dear Mr [REDACTED]

**RE: Environmental Protection Act 1990**  
**Licensing Act 2003**  
**Premises: The Surge, 74 Commercial Road, Port Talbot, SA13 1LR**

I am writing to make you aware that Environmental Health have received two separate noise complaints relating to noise on the 27<sup>th</sup> May 2021. One complainant provided us with a video that clearly shows loud music emanating from the above premises and it is alleged that the recording was made after 11pm at night.

As part of our investigation hopefully you have been informed that I visited the premises yesterday with my colleague Peter Malough of Licensing. We met with a staff member that identified himself as [REDACTED] and Peter later spoke to [REDACTED] on the telephone. We discussed the noise complaint amongst other Covid and licensing related requirements.

On my arrival music was being played from an outside speaker that I could clearly hear within my car. I was concerned at the potential for the outside speaker to cause a noise nuisance, particularly when background noise from the nearby road and other sources dropped later into the evening.

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## Environment

Ceri Morris Head of Planning and Public Protection  
The Quays, Brunel Way, Baglan Energy Park, Neath SA11 2GG  
Tel 01639 686868

## Yr Amgylchedd

Ceri Morris Pennaeth Cynllunio a Gwarchod y Cyhoedd  
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan, Castell-nedd SA11 2GG  
Ffôn 01639 686868

[www.npt.gov.uk](http://www.npt.gov.uk)

As your licence does not permit you to have outside entertainment, any music played over this speaker can only be at background level and therefore should not be audible outside of the curtilage of your premises.

During my visit the music was turned down to level that I would consider to be reasonable for that time of day (4pm) but it may not necessarily be reasonable later on in the day as other noise sources reduce. Your representative suggested that you could turn the music off at about 6 or 7pm outside to prevent it causing a disturbance. In addition to this suggested control measure, I recommended that regular checks should be carried out to make sure that the music cannot be heard outside the curtilage of the beer garden and that these checks should be documented. Peter Malough suggested that you may wish to include such controls within a noise management plan.

Whilst we appreciate the difficulties that Covid requirements are placing on the entertainment sector, for example, the requirement to ventilate and keep air flow through the premises. You must adjust your normal business activities to take this into account and ensure that you are not causing a noise nuisance. This may mean that the volume at which you can now play music is lower than it would have been previously.

I am aware that you propose to have live music on Sunday 6<sup>th</sup> June 2021. I was informed during the visit that it will start at 16.00hrs and finish at approximately 18.00hrs. Whilst this is less likely to be an issue than music later in the day it does not mean that it cannot cause a noise nuisance. As such, I again recommend that staff carry out regular patrols around the perimeter of the premises and adjacent to nearby residential properties to see if the music can be heard.

The Local Authority has a legal duty to investigate complaints of noise nuisance and should we substantiate a statutory nuisance under the Environmental Protection Act 1990 you will be served with an abatement notice. A breach of an abatement notice is an offence and you may be prosecuted and/or have noise equipment removed from the premises.

In some circumstances Environmental Health may wish to call your Premises Licence in for review where it is felt that your activities breach the Licensing Objective for the Prevention of Public Nuisance. As such I recommend that you take urgent action to assess the noise controls within your premises.

If you wish to discuss this matter with me further please do not hesitate to contact me.

Yours sincerely



**Mrs Leah Morgan**  
**Senior Environmental Health Officer**

cc. [REDACTED] – by email  
Licensing Neath Port Talbot Council – by email  
Peter Malough, Senior Legal Regulatory Officer, Neath Port Talbot Council – by email  
Calum Lewis, Environmental Health Officer, Neath Port Talbot Council – by email

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## Abatement Notice in respect of Noise Nuisance

To [REDACTED]  
of 74 Commercial Road, Taibach, Port Talbot, SA13 1LR

Ref: LCL/14444

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the\*  
Neath & Port Talbot County Borough Council ("the Council")  
being satisfied of the [existence] ~~likely [occurrence] [recurrence]~~ of noise amounting to a statutory nuisance  
under section [79(1)(g)] ~~[79(1)(ga)]~~ of that Act at The Surge, 74 Commercial Road, Taibach, Port Talbot  
SA13 1LR  
[within the district of the Council] arising from † music

**[HEREBY REQUIRE YOU]**, as [[one of] the person(s) responsible for the said nuisance] ~~[the [owner] [occupier] of  
the premises] from which the noise is or would be emitted] [the person in whose name the vehicle is for the time  
being registered] [the driver of the vehicle] [the operator of machinery or equipment], within immediately  
from the service of this notice to abate the same] [and also] **[HEREBY [PROHIBIT] [RESTRICT]** the  
~~[occurrence] [recurrence]~~ of the same] [and for that purpose require you to: ‡  
abate the nuisance~~

**THIS** is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995  
applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal  
has been abandoned or decided by the Court, as, in the opinion of the Council, ~~[the nuisance to which this  
notice relates is [injurious to health] [likely to be of a limited duration such that suspension would render the  
notice of no practical effect]] [the expenditure which would be incurred by any person in carrying out works in  
compliance with this notice before any appeal has been decided would not be disproportionate to the public  
benefit to be expected in that period from such compliance].~~

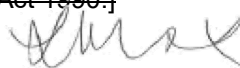
**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be  
guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will  
be liable to a fine not exceeding level 5 on the Standard Scale\*\* together with a further fine of an amount equal  
to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an  
offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding  
£20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of  
the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may  
execute the works and recover from you the necessary expenditure incurred.

~~¶ [The period specified above for compliance with this notice shall be extended by  
in accordance with section 80A(4) of the Environmental Protection Act 1990.]~~

Dated 8th June 2021

Signed

  
Leah Morgan (Environmental Health Officer) §

~~¶ [Time copy served]~~

Please address any communications to:

Neath & Port Talbot County Borough Council  
Environment Health & Trading Standards, 2nd Floor, The Quays, Port Talbot, Brunel Way, SA11 2GG

**N.B. The person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the date of service of the notice. See notes on the reverse of this form.**

*Delete any words in square brackets which do not apply*

\* Insert name of local authority.

† Describe the cause of the nuisance.

\*\* Currently £5000, subject to alteration by Order.

‡ State specific works to be done or action to be taken.

§ Insert title of proper officer.

¶ This paragraph applies only where this is a copy of a notice which has been affixed to a vehicle, machinery or equipment by virtue of a determination by the local authority under section 80A(2)(b) of the Act and this copy has been served within ONE HOUR of such notice having been so affixed.

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:-

## **APPEALS UNDER SECTION 80 (3) of the ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act")**

2. (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
  - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
  - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonably in character or extent, or are unnecessary;
  - (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
  - (e) where the nuisance to which the notice relates -
    - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f), (fa) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
    - (ii) is a nuisance falling within section 79(1)(b), of the 1990 Act and the smoke is emitted from a chimney, or
    - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, or
    - (iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and -
      - (aa) the artificial light is emitted from industrial, trade or business premises, or
      - (bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act), that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
  - (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of -
    - (i) any notice served under section 60 or 66 of the Control of Pollution Act 1974 ("the 1974 Act") (control of noise on construction sites and from certain premises),
    - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
    - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
  - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the Noise and Statutory Nuisance Act 1993 (loudspeakers in streets or roads);
  - (h) that the abatement notice should have been served on some person instead of the appellant, being -
    - (i) the person responsible for the nuisance, or
    - (ii) the person responsible for the vehicle, machinery or equipment, or
    - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
    - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
  - (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
    - (i) in the case where the appellant is the owner of the premises, the occupier of the premises; or
    - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
  - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
    - (i) a person also responsible for the nuisance, or
    - (ii) a person who is also owner of the premises, or
    - (iii) a person who is also an occupier of the premises, or
    - (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph h (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- (a) quash the abatement notice to which the appeal relates, or
  - (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
  - (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit -
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
  - (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above, the court -
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
  - (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

## **SUSPENSION OF NOTICE**

3. (1) Where:-
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
  - (b) either:-
    - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of the works before the hearing of the appeal, or
    - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
  - (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where -
- (a) the nuisance to which the abatement notice relates -
    - (i) is injurious to health, or
    - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
  - (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice -
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
  - (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.



## Abatement Notice in respect of Noise Nuisance

To [REDACTED]  
of 74 Commercial Road, Taibach, Port Talbot, SA13 1LR

Ref: LCL/14444b

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the\*  
Neath & Port Talbot County Borough Council ("the Council")  
being satisfied of the [existence] ~~likely [occurrence] [recurrence]~~ of noise amounting to a statutory nuisance  
under section [79(1)(g)] ~~[79(1)(ga)]~~ of that Act at The Surge, 74 Commercial Road, Taibach, Port Talbot  
SA13 1LR  
[within the district of the Council] arising from † music

**[HEREBY REQUIRE YOU]**, as [[one of] the person(s) responsible for the said nuisance] ~~[the [owner] [occupier] of  
the premises] from which the noise is or would be emitted] [the person in whose name the vehicle is for the time  
being registered] [the driver of the vehicle] [the operator of machinery or equipment], within immediately  
from the service of this notice to abate the same] [and also] **[HEREBY [PROHIBIT] [RESTRICT]]** the  
~~[occurrence] [recurrence]~~ of the same] [and for that purpose require you to: ‡  
abate the nuisance~~

**THIS** is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995  
applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal  
has been abandoned or decided by the Court, as, in the opinion of the Council, ~~[the nuisance to which this  
notice relates is [injurious to health] [likely to be of a limited duration such that suspension would render the  
notice of no practical effect]]~~ [the expenditure which would be incurred by any person in carrying out works in  
compliance with this notice before any appeal has been decided would not be disproportionate to the public  
benefit to be expected in that period from such compliance].

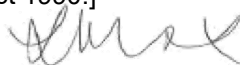
**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be  
guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will  
be liable to a fine not exceeding level 5 on the Standard Scale\*\* together with a further fine of an amount equal  
to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an  
offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding  
£20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of  
the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may  
execute the works and recover from you the necessary expenditure incurred.

~~¶ [The period specified above for compliance with this notice shall be extended by  
in accordance with section 80A(4) of the Environmental Protection Act 1990.]~~

Dated 8th June 2021

Signed



Leah Morgan (Environmental Health Officer) §

~~¶ [Time copy served]~~

Please address any communications to:

Neath & Port Talbot County Borough Council  
Environment Health & Trading Standards, 2nd Floor, The Quays, Port Talbot, Brunel Way, SA11 2GG

**N.B. The person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the date of service of the notice. See notes on the reverse of this form.**

*Delete any words in square brackets which do not apply*

\* Insert name of local authority.

† Describe the cause of the nuisance.

\*\* Currently £5000, subject to alteration by Order.

‡ State specific works to be done or action to be taken.

§ Insert title of proper officer.

¶ This paragraph applies only where this is a copy of a notice which has been affixed to a vehicle, machinery or equipment by virtue of a determination by the local authority under section 80A(2)(b) of the Act and this copy has been served within ONE HOUR of such notice having been so affixed.

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:-

**APPEALS UNDER SECTION 80 (3) of the ENVIRONMENTAL PROTECTION ACT 1990** ("the 1990 Act")

2. (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
  - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
  - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonably in character or extent, or are unnecessary;
  - (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
  - (e) where the nuisance to which the notice relates -
    - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f), (fa) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
    - (ii) is a nuisance falling within section 79(1)(b), of the 1990 Act and the smoke is emitted from a chimney, or
    - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, or
    - (iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and -
      - (aa) the artificial light is emitted from industrial, trade or business premises, or
      - (bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act), that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
  - (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of -
    - (i) any notice served under section 60 or 66 of the Control of Pollution Act 1974 ("the 1974 Act") (control of noise on construction sites and from certain premises),
    - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
    - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
  - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the Noise and Statutory Nuisance Act 1993 (loudspeakers in streets or roads);
  - (h) that the abatement notice should have been served on some person instead of the appellant, being -
    - (i) the person responsible for the nuisance, or
    - (ii) the person responsible for the vehicle, machinery or equipment, or
    - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
    - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
  - (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
    - (i) in the case where the appellant is the owner of the premises, the occupier of the premises; or
    - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
  - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
    - (i) a person also responsible for the nuisance, or
    - (ii) a person who is also owner of the premises, or
    - (iii) a person who is also an occupier of the premises, or
    - (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph h (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- (a) quash the abatement notice to which the appeal relates, or
  - (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
  - (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit -
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
  - (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above, the court -
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
  - (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

**SUSPENSION OF NOTICE**

3. (1) Where:-
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
  - (b) either:-
    - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of the works before the hearing of the appeal, or
    - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
  - (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where -
- (a) the nuisance to which the abatement notice relates -
    - (i) is injurious to health, or
    - (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
  - (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice -
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
  - (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

*Date Dyddiad* 17<sup>th</sup> June 2021  
*Direct line Rhif ffôn* 01639 686521  
*Email Ebost* l.morgan7@npt.gov.uk  
*Contact Cyswllt* Leah Morgan  
*Your ref Eich cyf*  
*Our ref Ein cyf* LCL/

[REDACTED]  
The Surge  
74 Commercial Road  
Port Talbot  
SA13 1LR

Dear Mr [REDACTED]

**RE: Environmental Protection Act 1990**  
**Licensing Act 2003**  
**Premises: The Surge, 74 Commercial Road, Port Talbot, SA13 1LR**

I am writing further to the abatement notice that was served on you on the 8<sup>th</sup> June 2021, a copy of which was also emailed to you.

The abatement notice required you to abate a noise nuisance emanating from the above premises. However, unfortunately on **Sunday 13<sup>th</sup> June 2021** an officer from this department witnessed loud music from a band within the premises.

The purpose of my letter is to notify you that if we witness evidence of further breaches of the abatement notice it will be this department's intention to prosecute you for an offence under section 80 of the Environmental Protection Act 1990 and we may also consider it necessary to seize noise equipment to abate the nuisance. You are strongly advised to take immediate steps to prevent a noise nuisance.

---

**Environment**

Ceri Morris Head of Planning and Public Protection  
The Quays, Brunel Way, Baglan Energy Park, Neath SA11 2GG  
Tel 01639 686868

**Yr Amgylchedd**

Ceri Morris Pennaeth Cynllunio a Gwarchod y Cyhoedd  
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan, Castell-nedd SA11 2GG  
Ffôn 01639 686868

[www.npt.gov.uk](http://www.npt.gov.uk)

If you wish to discuss this matter with me further please do not hesitate to contact me.

Yours sincerely



**Mrs Leah Morgan**  
**Senior Environmental Health Officer**

cc.

[Redacted]

Licensing Neath Port Talbot Council – by email

Peter Malough, Senior Legal Regulatory Officer, Neath Port Talbot Council – by email

Calum Lewis, Environmental Health Officer, Neath Port Talbot Council – by email



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

*Date Dyddiad* 17<sup>th</sup> June 2021  
*Direct line Rhif ffôn* 01639 686521  
*Email Ebost* l.morgan7@npt.gov.uk  
*Contact Cyswllt* Leah Morgan  
*Your ref Eich cyf*  
*Our ref Ein cyf* LCL/

[REDACTED]  
The Surge  
74 Commercial Road  
Port Talbot  
SA13 1LR

Dear Mr [REDACTED]

**RE: Environmental Protection Act 1990**  
**Licensing Act 2003**  
**Premises: The Surge, 74 Commercial Road, Port Talbot, SA13 1LR**

I am writing further to the abatement notice that was served on you on the 8<sup>th</sup> June 2021, a copy of which was also emailed to you.

The abatement notice required you to abate a noise nuisance emanating from the above premises. However, unfortunately on **Sunday 13<sup>th</sup> June 2021** an officer from this department witnessed loud music from a band within the premises.

The purpose of my letter is to notify you that if we witness evidence of further breaches of the abatement notice it will be this department's intention to prosecute you for an offence under section 80 of the Environmental Protection Act 1990 and we may also consider it necessary to seize noise equipment to abate the nuisance. You are strongly advised to take immediate steps to prevent a noise nuisance.

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If you wish to discuss this matter with me further please do not hesitate to contact me.

Yours sincerely



**Mrs Leah Morgan**  
**Senior Environmental Health Officer**

cc.

[Redacted]

Licensing Neath Port Talbot Council – by email

Peter Malough, Senior Legal Regulatory Officer, Neath Port Talbot Council – by email

Calum Lewis, Environmental Health Officer, Neath Port Talbot Council – by email

Occurrence Number:	URN						
<b>Statement of: Calum Lewis</b>							
<b>Witness contact details:</b>							
Work address:	Environmental Health Team The Quays Brunel Way SA11 2GG						
Home telephone No.:		Work telephone No.:	01639685615				
Mobile/Pager No.:		Email address:	C.lewis6@npt.gov.uk				
Preferred means of contact (specify details):	email						
Best time of contact (specify details):	Office hours						
Gender:	Male	Date of Birth: over 18	Over 18				
Ethnicity code (16+1):		Place of Birth:	Wales				
Former Name:		Religion/Belief (specify):	None				
DATES OF WITNESS NON-AVAILABILITY:							

Signature:	Calum Lewis	Signature witnessed by:	
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**WITNESS STATEMENT**

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Occurrence Number:	URN						
Statement of:	<b>Calum Lewis</b>						
Age if under 18:	<b>Over 18</b> (if over 18 insert 'over 18')	Occupation:	Environmental Health Officer				
This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.							
Signature:		Calum Lewis	Date:	22/06/21			

Tick if witness evidence is visually recorded  (supply witness details on rear)

1. I am employed as an Environmental Health Officer by Neath Port Talbot County Borough Council (NPTCBC). I have a full Environmental Health Registration Board (EHORB) qualification. I am authorised by NPTCBC to conduct enforcement duties utilizing The Environmental Protection Act 1990 and The Noise Act 1996.
2. My duties include the investigation of allegations of statutory nuisance, gathering evidence in a manner as to be admissible in court proceedings, and conducting seizures following the breach of a notice.
3. On the 20<sup>th</sup> of June 2021 I attended the Surge pub at 74, Commercial Road, Taibach, Port Talbot, SA13 1LP.
4. At roughly 16:00 hours, I arrived outside the Surge pub.
5. At roughly 16:10, I could hear live music coming from the Surge pub. The noise was exceptionally loud and could be heard clearly from the street.
6. I entered the complainant's property at roughly 16:15. The sound of the live band was loud and clear in the property.
7. At roughly 16:20 the noise became slightly quieter. The complainant noted that the back door of The Surge had been closed. The sound was still intrusive, with the drum percussion permeating into the property. Apart from momentary breaks between songs, this sound was very loud.
8. The sound was audible and intrusive in every room in the house.
9. I periodically took samples using the noise monitor.
10. At 16:48 I noted that the band was still playing and was very loud.
11. At 17:02 the sound stopped.
12. At 17:22 the band started playing again.
13. At 17:28 I noted the intrusiveness of the bass guitar and drum sound into the property.
14. The band continued until 18:08.
15. At roughly 18:15 I departed the complainant's property.
16. I sat in my car on the road opposite The Surge. Around 30 guests had gone out into the beer garden.

Signature:	Calum Lewis	Signature witnessed by:	
------------	-------------	-------------------------	--



Occurrence Number:		URN				
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Statement of:	<b>Calum Lewis</b>
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17. At 18:30 recorded music was being played to the front of the venue. The level of the recorded music was quieter than the band, but still loud.

18. At 18:35 the music volume appeared to be louder in the street. The sound appeared to be increased in response to patrons dancing in the beer garden. It was now very loud.

19. At roughly 19:05 I re-entered the complainant's property. The sound from the speaker was clearly audible in the living room.

20. At roughly 19:15 I left the complainants property and departed the area.

Signature:	Calum Lewis	Signature witnessed by:	
------------	-------------	-------------------------	--

Occurrence Number:		URN				
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Statement of:	<b>Calum Lewis</b>
---------------	--------------------

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Signature:	Calum Lewis	Signature witnessed by:	
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010838

THIS IS A TRUE COPY

OF A NOTICE SERVED

BY PREPAID LETTER POST

ON 16/11/16  
SIGNED [Signature]

Ref: GL/234891/01

### Abatement Notice in respect of Statutory Nuisance

To [Redacted]

of 74 Commercial Road, Taibach, Port Talbot, SA13 1LR

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the

Neath Port Talbot County Borough Council

("the Council") being

satisfied of the [REDACTED] [likely [REDACTED] [recurrence]] of a statutory nuisance under section 79(1)(g) of that Act at the premises known as

Old Surgery, 74 Commercial Road, Taibach, SA13 1LR

[within the district of the Council] arising from†

Singing and the playing of musical instruments at Old Surgery, 74 Commercial Road, Taibach, SA13 1LR

**[HEREBY REQUIRE YOU,** as the [person responsible for the said nuisance] [REDACTED]

[REDACTED] within forthwith from the service of this notice, [to abate the same] [and so]

**[HEREBY [PROHIBIT] [REDACTED] [recurrence] of the same] [and for that purpose require you to:†**

Abate the nuisance

**THIS** is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995 applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court, as, in the opinion of the Council, [REDACTED] [the expenditure which would be incurred by any person in carrying out works in compliance with this notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance].

**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine not exceeding level 5 on the Standard Scale\*\* together with a further fine of an amount equal to one-tenth of the greater of £5,000 or level 4 on the standard scale for each day on which the offence continues after conviction. A person who commits an offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may execute the works and recover from you the necessary expenditure incurred.

Dated 16/11/2016

Signed

[Signature]

Environmental Health Team Leader §  
the officer appointed for this purpose

Please address any communications to:

Environment, Planning and Public Protection, The Quays, Brunel Way, Baglan Energy Park, Neath, SA11 2GG

**N.B. The person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the date of service of the notice. See notes on the reverse of this form.**

Delete any words in square brackets which do not apply

\* Insert name of local authority. † Describe the cause of the nuisance. \*\* Currently £5000, subject to alteration by Order.  
‡ State specific works to be done or action to be taken. § Insert title of proper officer.

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010339

# Abatement Notice in respect of Statutory Nuisance

To [redacted]  
of [redacted]

MAWD

16/11/16

Ref: GL/234891/02

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the\*  
Neath Port Talbot County Borough Council  
satisfied of the ~~XXXXXX~~ [likely ~~XXXXXX~~] [recurrence]] of a statutory nuisance under section 79(1)( g ) of  
that Act at the premises known as  
Old Surgery, 74 Commercial Road, Taibach, SA13 1LR

("the Council") being

[within the district of the Council] arising from†  
Singing and the playing of musical instruments at Old Surgery, 74 Commercial Road,  
Taibach, SA13 1LR

[HEREBY REQUIRE YOU, as the [person responsible for the said nuisance] ~~XXXXXX~~  
~~XXXXXX~~ within forthwith from the service of this notice, ~~XXXXXX~~

[HEREBY [PROHIBIT] [RESTRICT] the ~~XXXXXX~~ [recurrence] of the same] [and for that purpose require you  
to:‡

Abate the nuisance

**THIS** is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995  
applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal  
has been abandoned or decided by the Court, as, in the opinion of the Council.  
[The nuisance to which this notice relates is injurious to health, likely to be of a limited duration such that  
suspension would render the notice of no practical effect.]  
[[the expenditure which would be incurred by any person in carrying out works in compliance with this notice  
before any appeal has been decided would not be disproportionate to the public benefit to be expected in  
that period from such compliance].

**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be  
guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction  
will be liable to a fine not exceeding level 5 on the Standard Scale\*\* together with a further fine of an amount  
equal to one-tenth of the greater of £5,000 or level 4 on the standard scale for each day on which the offence  
continues after conviction. A person who commits an offence on industrial, trade or business premises will be  
liable on summary conviction to a fine not exceeding £20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of  
the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council  
may execute the works and recover from you the necessary expenditure incurred.

Dated 16/11/16

Signed 

Environmental Health Team Leader §  
the officer appointed for this purpose

Please address any communications to:

Environment, Planning and Public Protection, The Quays, Brunel Way, Baglan Energy  
Park, Neath, SA11 2GG

**N.B.** The person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the  
date of service of the notice. See notes on the reverse of this form.

Delete any words in square brackets which do not apply  
\* Insert name of local authority. † Describe the cause of the nuisance. \*\* Currently £5000, subject to alteration by Order.  
‡ State specific works to be done or action to be taken. § Insert title of proper officer.

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Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

Date Dyddiad 14/08/2020  
Direct line Rhif ffôn 01639 686521  
Email Epost l.morgan7@npt.gov.uk  
Contact Cyswllt Leah Morgan  
Your ref Eich cyf  
Our ref Ein cyf LCL/NOT8967a

[REDACTED]  
The Surge Pub Limited  
74 Commercial Road  
Taibach  
Port Talbot  
SA13 1LR

Dear Mr [REDACTED]

**RE: Environmental Protection Act 1990**  
**Address: The Surge Pub Limited, 74 Commercial Road, Taibach, Port Talbot, SA13 1LR**

Please find enclosed an abatement notice in respect of statutory nuisance at the above premises.

Please do not hesitate to contact me on the above telephone number.

Yours sincerely

**Mrs Leah Morgan**  
**Environmental Health Officer**

---

**Environment**

Ceri Morris Head of Planning and Public Protection  
The Quays, Brunel Way, Baglan Energy Park, Neath SA11 2GG  
Tel 01639 686868

**Yr Amgylchedd**

Ceri Morris Pennaeth Cynllunio a Gwarchod y Cyhoedd  
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan, Castell-nedd SA11 2GG  
Ffôn 01639 686868

[www.npt.gov.uk](http://www.npt.gov.uk)

Croesewir gohebiaeth yn y Gymraeg a byddwn yn ymdrin â gohebiaeth Gymraeg a Saesneg i'r un safonau ac amserlenni.  
We welcome correspondence in Welsh and will deal with Welsh correspondence to the same standards and timescales.





## Abatement Notice in respect of Noise Nuisance

To [REDACTED]  
of The Surge Pub Limited, 74 Commercial Road, Taibach, Port Talbot,  
SA13 1LR

Ref: LCL/N0T8967a

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the\*  
Neath & Port Talbot County Borough Council ("the Council")  
being satisfied of the ~~[existence]~~ [likely [occurrence] ~~[recurrence]]~~ of noise amounting to a statutory nuisance  
under section ~~[79(1)(g)] [79(1)(ga)]~~ of that Act at The Surge Pub Limited, 74 Commercial Road, Taibach,  
Port Talbot, SA13 1LR  
[within the district of the Council] arising from † Music and shouting

**[HEREBY REQUIRE YOU]**, as ~~[[one of] the person(s) responsible for the said nuisance] [the [owner] [occupier] of  
the premises] from which the noise is or would be emitted] [the person in whose name the vehicle is for the time  
being registered] [the driver of the vehicle] [the operator of machinery or equipment],~~ within immediately  
from the service of this notice to abate the same [and also] **[HEREBY [PROHIBIT] [RESTRICT]** the  
~~[occurrence] [recurrence]~~ of the same [and for that purpose require you to: ‡  
Abate the nuisance

**THIS** is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995  
applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal  
has been abandoned or decided by the Court, as, in the opinion of the Council, ~~[the nuisance to which this  
notice relates is [injurious to health] [likely to be of a limited duration such that suspension would render the  
notice of no practical effect]]~~ [the expenditure which would be incurred by any person in carrying out works in  
compliance with this notice before any appeal has been decided would not be disproportionate to the public  
benefit to be expected in that period from such compliance].

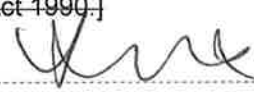
**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be  
guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will  
be liable to a fine not exceeding level 5 on the Standard Scale\*\* together with a further fine of an amount equal  
to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an  
offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding  
£20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of  
the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may  
execute the works and recover from you the necessary expenditure incurred.

~~¶ [The period specified above for compliance with this notice shall be extended by  
in accordance with section 80A(4) of the Environmental Protection Act 1990.]~~

Dated 14th August 2020

Signed

  
Leah Morgan (Environmental Health Officer)

¶ [Time copy served]

§  
the officer appointed for this purpose

Please address any communications to:

Neath & Port Talbot County Borough Council  
Environment Health & Trading Standards, 2nd Floor, The Quays, Port Talbot, Brunel Way, SA11 2GG

**N.B. The person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the date  
of service of the notice. See notes on the reverse of this form.**

*Delete any words in square brackets which do not apply*

\* Insert name of local authority. † Describe the cause of the nuisance. \*\* Currently £5000, subject to alteration by Order.  
‡ State specific works to be done or action to be taken. § Insert title of proper officer. ¶ This paragraph applies only where this is a  
copy of a notice which has been affixed to a vehicle, machinery or equipment by virtue of a determination by the local authority under section  
80A(2)(b) of the Act and this copy has been served within ONE HOUR of such notice having been so affixed.

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:-

## APPEALS UNDER SECTION 80 (3) of the ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act")

2. (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonably in character or extent, or are unnecessary;
- (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates -
- (i) is a nuisance falling within section 79(1)(a), (d), (e), (f), (fa) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
- (ii) is a nuisance falling within section 79(1)(b), of the 1990 Act and the smoke is emitted from a chimney, or
- (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, or
- (iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and -
- (aa) the artificial light is emitted from industrial, trade or business premises, or
- (bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(AA) of the 1990 Act),
- that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
- (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of -
- (i) any notice served under section 60 or 66 of the Control of Pollution Act 1974 ("the 1974 Act") (control of noise on construction sites and from certain premises),
- (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
- (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
- (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the Noise and Statutory Nuisance Act 1993 (loudspeakers in streets or roads);
- (h) that the abatement notice should have been served on some person instead of the appellant, being -
- (i) the person responsible for the nuisance, or
- (ii) the person responsible for the vehicle, machinery or equipment, or
- (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
- (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
- (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
- (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
- (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
- (i) a person also responsible for the nuisance, or
- (ii) a person who is also owner of the premises, or
- (iii) a person who is also an occupier of the premises, or
- (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
- (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit -
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) in exercising its powers under paragraph (6) above, the court -
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

## SUSPENSION OF NOTICE

3. (1) Where:-
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
- (b) either:- (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of the works before the hearing of the appeal, or (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
- (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where -
- (a) the nuisance to which the abatement notice relates -
- (i) is injurious to health, or
- (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice -
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
- (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

Date Dyddiad 14/08/2020  
Direct line Rhif ffôn 01639 686521  
Email Ebst l.morgan7@npt.gov.uk  
Contact Cyswllt Leah Morgan  
Your ref Eich cyf  
Our ref Ein cyf LCL/NOT8967b

Mr [REDACTED]  
The Surge Pub Limited  
74 Commercial Road  
Taibach  
Port Talbot  
SA13 1LR

Dear Mr [REDACTED]

**RE: Environmental Protection Act 1990**  
**Address: The Surge Pub Limited, 74 Commercial Road, Taibach, Port Talbot, SA13 1LR**

Please find enclosed an abatement notice in respect of statutory nuisance at the above premises.

Please do not hesitate to contact me on the above telephone number.

Yours sincerely

**Mrs Leah Morgan**  
**Environmental Health Officer**

---

**Environment**

Ceri Morris Head of Planning and Public Protection  
The Quays, Brunel Way, Baglan Energy Park, Neath SA11 2GG  
Tel 01639 686868

**Yr Amgylchedd**

Ceri Morris Pennaeth Cynllunio a Gwarchod y Cyhoedd  
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan, Castell-nedd SA11 2GG  
Ffôn 01639 686868

[www.npt.gov.uk](http://www.npt.gov.uk)

Croesewir gonebiaeth yn y Gymraeg a byddwn yn ymdrin â gonebiaeth Gymraeg a Saesneg i'r un safonau ac amserienni.  
We welcome correspondence in Welsh and will deal with Welsh correspondence to the same standards and timescales.



## Abatement Notice in respect of Noise Nuisance

To [REDACTED]  
of The Surge Pub Limited, 74 Commercial Road, Taibach, Port Talbot,  
SA13 1LR

Ref: LCL/N0T8967b

**TAKE NOTICE** that under the provisions of the Environmental Protection Act 1990 the\*  
Neath & Port Talbot County Borough Council ("the Council")  
being satisfied of the ~~[existence]~~ [likely [occurrence] ~~[recurrence]]~~ of noise amounting to a statutory nuisance  
under section [79(1)(g)] ~~[79(1)(ga)]~~ of that Act at The Surge Pub Limited, 74 Commercial Road, Taibach,  
Port Talbot, SA13 1LR  
[within the district of the Council] arising from † Music and shouting

**[HEREBY REQUIRE YOU]**, as [[one of] the person(s) responsible for the said nuisance] ~~[the [owner] [occupier] of  
the premises] from which the noise is or would be emitted] [the person in whose name the vehicle is for the time  
being registered] [the driver of the vehicle] [the operator of machinery or equipment], within immediately  
from the service of this notice to abate the same] [and also] **[HEREBY [PROHIBIT] [RESTRICT]** the  
~~[occurrence] [recurrence]~~ of the same] [and for that purpose require you to: ‡  
Abate the nuisance~~

**THIS** is a notice to which paragraph (2) of regulation 3 of the Statutory Nuisance (Appeals) Regulations 1995  
applies and, in consequence, in the event of an appeal this notice shall NOT be suspended until the appeal  
has been abandoned or decided by the Court, as, in the opinion of the Council, ~~[the nuisance to which this  
notice relates is [injurious to health] [likely to be of a limited duration such that suspension would render the  
notice of no practical effect]]~~ [the expenditure which would be incurred by any person in carrying out works in  
compliance with this notice before any appeal has been decided would not be disproportionate to the public  
benefit to be expected in that period from such compliance].

**IF** without reasonable excuse you contravene or fail to comply with any requirement of this notice you will be  
guilty of an offence under section 80(4) of the Environmental Protection Act 1990 and on summary conviction will  
be liable to a fine not exceeding level 5 on the Standard Scale\*\* together with a further fine of an amount equal  
to one-tenth of that level for each day on which the offence continues after conviction. A person who commits an  
offence on industrial, trade or business premises will be liable on summary conviction to a fine not exceeding  
£20,000.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of  
the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the Council may  
execute the works and recover from you the necessary expenditure incurred.

~~¶ [The period specified above for compliance with this notice shall be extended by  
in accordance with section 80A(4) of the Environmental Protection Act 1990.]~~

Dated 14th August 2020

Signed



Leah Morgan (Environmental Health Officer)

¶ [Time copy served

§ the officer appointed for this purpose

Please address any communications to:

Neath & Port Talbot County Borough Council  
Environment Health & Trading Standards, 2nd Floor, The Quays, Port Talbot, Brunel Way, SA11 2GG

**N.B.** The person served with this notice may appeal against the notice to a magistrates' court within 21 days beginning with the date  
of service of the notice. See notes on the reverse of this form.

Delete any words in square brackets which do not apply

\* Insert name of local authority. † Describe the cause of the nuisance. \*\* Currently £5000, subject to alteration by Order.  
‡ State specific works to be done or action to be taken. § Insert title of proper officer. ¶ This paragraph applies only where this is a  
copy of a notice which has been affixed to a vehicle, machinery or equipment by virtue of a determination by the local authority under section  
80A(2)(b) of the Act and this copy has been served within ONE HOUR of such notice having been so affixed.

The Statutory Nuisance (Appeals) Regulations 1995 provide as follows:-

**APPEALS UNDER SECTION 80 (3) of the ENVIRONMENTAL PROTECTION ACT 1990 ("the 1990 Act")**

2. (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonably in character or extent, or are unnecessary;
- (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates -
- (i) is a nuisance falling within section 79(1)(a), (d), (e), (f), (fa) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
- (ii) is a nuisance falling within section 79(1)(b), of the 1990 Act and the smoke is emitted from a chimney, or
- (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, or
- (iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and -
- (aa) the artificial light is emitted from industrial, trade or business premises, or
- (bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act),
- that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
- (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of -
- (i) any notice served under section 60 or 66 of the Control of Pollution Act 1974 ("the 1974 Act") (control of noise on construction sites and from certain premises),
- (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
- (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
- (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the Noise and Statutory Nuisance Act 1993 (loudspeakers in streets or roads);
- (h) that the abatement notice should have been served on some person instead of the appellant, being -
- (i) the person responsible for the nuisance, or
- (ii) the person responsible for the vehicle, machinery or equipment, or
- (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
- (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
- (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
- (i) in the case where the appellant is the owner of the premises, the occupier of the premises; or
- (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
- (i) a person also responsible for the nuisance, or
- (ii) a person who is also owner of the premises, or
- (iii) a person who is also an occupier of the premises, or
- (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of the appeal the court may:-
- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
- (c) dismiss the appeal;
- and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.
- (6) Subject to paragraph (7) below, on the hearing of an appeal the court may make such order as it thinks fit -
- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.
- (7) In exercising its powers under paragraph (6) above, the court -
- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

**SUSPENSION OF NOTICE**

3. (1) Where:-
- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
- (b) either:- (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of the works before the hearing of the appeal, or
- (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
- (c) either paragraph (2) does not apply, or it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.
- (2) This paragraph applies where -
- (a) the nuisance to which the abatement notice relates -
- (i) is injurious to health, or
- (ii) is likely to be of a limited duration such that suspension of the notice would render it of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance.
- (3) Where paragraph (2) applies the abatement notice -
- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
- (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

## Environmental Health Statement

The Environmental Health Section of Neath Port Talbot Council wish to make an application to review the Premises Licence for The Old Surgery, 74 Commercial Street, Taibach, SA13 1LR (Premises Licence Number: PREM-0316), also known as The Surge.

The Environmental Health review application primarily focuses on the failure to promote 'The Prevention of Public Nuisance' Licensing Objective.

The decision to make the review application has not been taken lightly; but it is felt that this is the only remaining option to achieve compliance, and attain ongoing protection for the local residents from excessive noise arising from activities at, and in the vicinity of the licensed premises.

Issues in relation to the premises have been ongoing for many years. Several attempts to resolve concerns amicably with the licence holders have failed, and Abatement Notices have been served and seizures of noise equipment under the Environmental Protection Act 1990 have taken place. Still noise problems continue and the licence holders have failed to achieve sustained compliance.

Complaints extend back as far as 2015; the Premises Licence Holder at the time was a Mr [REDACTED] and since that time the Premises Licence holder has changed. However, Mr [REDACTED] continues to have responsibilities for the building, as he is the sole active director of the company, The Surge Pub Ltd which is named as the landlord in the lease agreement.

Noise Abatement Notices have been served on various operators and Premises Licence Holders, including [REDACTED] in 2016, 2020 and more recently in June 2021, full details are set out below.

Having reviewed the history of complaints in relation to the premises; initially there was a pattern of short term compliance following Local Authority intervention; whether it be Environmental Health, Licensing or Waste Enforcement, but compliance would only last a short duration before complaints would be received again. Noise complaints only ceased following the service of the Abatement Notice in 2020 when the premises had to close due to Lockdown for Covid.

Complaints in 2021 regarding noise from the premises commenced almost as soon as the premises opened under the new management and Premises Licence Holder after Covid restrictions within the hospitality sector were relaxed. Environmental Health received complaints of excessive music emanating from the premises. An announced visit to the premises was made by Environmental Health and Licensing on the 3<sup>rd</sup> June 2021 to discuss the noise complaints and Covid controls. The Premises Licence Holder and Manager sent a representative to the visit and advice was given about the volume of jukebox noise and the scheduled band due to play on the following Sunday (6<sup>th</sup> June 2021). During the visit Environmental Health discussed that music levels were likely to need to be quieter than ordinarily due to the need to ventilate premises for Covid and offered advice regarding regular checks around the perimeter of the premises. The visit was followed up in writing to the Premises Licence Holder and the Manager (Appendix 1).

On the following Monday morning (7<sup>th</sup> June 2021) Environmental Health received reports of excessive noise and a number of sound recordings and videos of excessively loud music from a band playing in the beer garden had been sent in (Appendix 2). On the basis of the evidence provided it was concluded that the noise amounted to a Statutory Nuisance and Noise Abatement Notices were served on the 8<sup>th</sup> June 2021 by post and copies sent by email (Appendix 3). The notices were served on the new Premises Licence Holder and the Manager.

On the 13<sup>th</sup> June 2021 an Environmental Health Officer visited and witnessed loud music emanating from the premises and a warning letter was sent on the 17<sup>th</sup> June 2021 to the Premises Licence Holder and the Manager informing them that it was a likely breach of the abatement notice. The letter also informed them that further action would be taken if more breaches were witnessed and recommended immediate steps. This letter was sent by post and emailed. (Appendix 4)

On the 20<sup>th</sup> June 2021 an officer of Environmental Health visited the premises and there was loud music playing again despite numerous previous warnings. On this occasion he witnessed the noise from within a neighbour's property and was satisfied that it was a Statutory Nuisance and therefore a breach of the Abatement Notice.

The officer's witness statement (Appendix 5) included the following descriptions:

- *The noise was exceptionally loud and could be heard clearly from the street.*
- *Music was clearly audible and intrusive within the domestic property.*
- *I noted the intrusiveness of the bass guitar and drum sound into the property.*
- *The music was intrusive in each room of the domestic property.*
- *Recorded music was being played to the front of the venue. The level of the recorded music was quieter than the band, but still loud.*
- *The sound from the speaker (that had been brought out into the beer garden) was clearly audible in the living room.*

In addition to the excessive music during the event causing a nuisance; what was witnessed by the officer also raised 'public safety' concerns, particularly in terms of Covid controls and current restrictions. With the excessive volume of the music, customers would need to shout in order to communicate with each other, and naturally come closer together in order to be heard.

It is accepted that the officer had limited view of the activities on the premises, but there was very little seen to suggest clear or obvious Covid controls being implemented at the event.

Following the live music element of the event, recorded music was being played from speakers into the beer garden at a volume where it continued to be intrusive within the domestic property. Covid restrictions at the time only permitted recorded music to be provided at background level. Further demonstrating the operator's poor attitude towards complying with rules and regulations.

Environmental Health have also been provided videos of patrons appearing to take illegal substances in the carpark of the premises in plain view of the road, the videos have been forwarded to Licensing and Licensing Police, raising further concerns about a failure to promote the licensing objective "the prevention of crime and disorder".

On the 27<sup>th</sup> June 2021 an Environmental Health Officer visited the area during a live music event. He witnessed loud music emanating from the premises which was again a breach of the Abatement Notice. The officer described being able to clearly determine what song was being played at the furthest end of the street. The officer spoke with the DPS [REDACTED] who said that he had just carried out a perimeter check but the officer pointed out that he could clearly hear the music some distance from the premises and the reason for the check was to take corrective action which clearly had not taken place. It seemed [REDACTED] did not remember the officer and that they had previously had similar conversations about noise controls, the officer felt that [REDACTED] was not being sufficiently proactive in his role as DPS during this event.

On the 30<sup>th</sup> June 2021 a warrant was executed to seize noise making equipment and to abate a statutory noise nuisance. During this 4 speakers were removed from the premises.



There have been applications and changes of Premises Licence Holders and DPS in the course of Environmental Health's involvement with the premises which has resulted on numerous Abatement Notices served on various persons identified as those responsible for the noise. A list of notices is included below and copies of each notice are provided in (Appendix 6)

1. 16<sup>th</sup> November 2016 - Noise Abatement Notice – [REDACTED]
2. 16<sup>th</sup> November 2016 – Noise Abatement Notice – [REDACTED]
3. 14<sup>th</sup> August 2020 – Noise Abatement Notice – [REDACTED] (Owner and sole director The Surge Pub Ltd)
4. 14<sup>th</sup> August 2020 – Noise Abatement Notice – [REDACTED] (PLH)
5. 8<sup>th</sup> June 2021 – Noise Abatement Notice – [REDACTED] (PLH)
6. 8<sup>th</sup> June 2021 – Noise Abatement Notice – [REDACTED] (Appointed Manager)

Mr [REDACTED] who owns the premises and is the sole director of The Surge Pub Ltd, has maintained a constant role throughout initially as the DPS but following service of the 2016 Abatement Notices he transferred this role to [REDACTED] who is the existing DPS for the premises, a door supervisor and more recently the Premises Licence Holder.

Mr [REDACTED] made an application to the Local Authority to have the abatement notice that was served on him removed because he did not feel he was responsible for what happened at the premises, stating that the tenants are responsible for the premises and any noise. This request was denied as it was concluded that he has ultimate control over what his tenants do in the premises by way of enforcement of the tenancy agreement.

On the 7<sup>th</sup> July 2021 Environmental Health were notified by Licensing that they had been contacted by Mr [REDACTED] requesting to make an application to transfer the Premises Licence into his name, thereby removing the current recipients of Noise Abatement Notices from the premises. This change was granted on the 12<sup>th</sup> July 2021.

On the 13<sup>th</sup> July 2021, Licensing, Environmental Health and the Police Licensing Officer visited the premises to discuss with the new Premises Licence Holder the previous issues that had occurred at the premises. During the meeting [REDACTED] was understanding of the issues and talked of wanting to sort the premises out and resolve the issues, however, complaints were received from a resident about loud patron noise after the licence hours on the 17<sup>th</sup> and 18<sup>th</sup> July 2021, the following weekend.

In summary the changes of Premises Licence Holder and DPS are as follows;

20/11/2015 - TRF and DPS Change to [REDACTED] Licence holder and [REDACTED] as DPS

18/11/2016 - DPS Change from [REDACTED] to [REDACTED] ([REDACTED] remain licence holder)

25/07/2017 - DPS Change from [REDACTED] to [REDACTED] ([REDACTED] remain licence holder)

16/03/2020 - TRF and DPS Change [REDACTED]

24/04/2021 - TRF into [REDACTED]

5/5/2021 - DPS Change [REDACTED]

12/7/2021 – TRF to [REDACTED]

It is suspected that such changes occur because Abatement Notices are served and/or enforcement action happens on those identified as responsible persons at the time of the nuisance occurring, meaning that as applications are granted for new Premises Licence Holders the process of witnessing a nuisance and serving Abatement Notices must start again. This causes stressful and distressing delays for local residents who have had to suffer ongoing and sustained problems with noise nuisance from the premises. It is for this reason that Environmental Health are of the opinion that clear conditions on the premises licence relating to public nuisance and noise will provide a clear understanding to anyone involved in the premises as to what is acceptable and permitted.

The primary concern for Environmental Health is the repeated issue of excessive music emanating from the premises; this relates to indoor and outdoor music, both live and recorded format.

Live music in particular is causing difficulty for Licensing to control because of the provisions of the Live Music Act 2012. However, live music is a regular occurrence at this premises and is being conducted in a completely uncontrolled and irresponsible manner. One event on the 6<sup>th</sup> June 2021 took place in the beer garden of the premises and was excessively loud. This was outside of the boundary of the premises licence which currently just relates to the building footprint despite live music and speakers being played to patrons in the beer garden on a regular basis.

It is felt that the structure and location of this premises is not suitable for the type of entertainment the licensee wishes to provide. The premises is surrounded on all sides by residential properties the closest being approximately 1m from the boundary of the premises. This combined with the poor attitude that management has shown towards the advice, recommendations and Notices and the continuing noise nuisance that the premises is causing leads to the conclusion that the premises is not suitable or appropriate for live or recorded music to be provided. The various operators at the premises have demonstrated that they are unable to provide such entertainment without giving rise to complaints, and more significantly, officers of the department have witnessed the excessive noise first hand.

During visits to the premises it has been noted that there is an issue with litter in the form of cigarette butts being thrown into the street from the beer garden. This matter has also been reported to Environmental Health and Licensing by a local community group that are cleaning up the litter and also local councillors who are being approached by constituents, concerned about the impact that this is having on their community. Section 2.15 of the Revised Guidance issued under section 182 of the Licensing Act 2003 states that litter is a relevant consideration in achievement of the licensing objective of public nuisance. As such we have recommended a condition requiring the regular cleaning of the beer garden and surrounding area of cigarette butts and also a condition requiring the provision of adequate ashtrays and disposal facilities.

Taking all in to consideration, the Environmental Health Section, make the following recommendations;

Firstly our recommendation is that the premises licence is amended to include the full curtilage of the premises and to bring the beer garden within the control of the premises licence. The main reason for this is that loud music and regulated entertainment has been witnessed in the beer garden that has been uncontrolled and given rise to a statutory nuisance.

The Environmental Health Section also propose the following additional conditions;

**Condition 1**

By virtue of S177 (A) the Licensing Act 2003 the conditions of the Premises Licence relating to regulated entertainment shall be in force between 8.00 hours and 23.00 hours.

#### **Condition 2**

There shall be no external amplified sound (i.e. in the beer garden, car park, or anywhere else outside the curtilage of the building).

#### **Condition 3**

There shall be no regulated entertainment in the form of live or recorded music at the premises until such time that the licence holder and/or owner of the premises commissions an independent acoustic consultant to undertake a Noise Impact Assessment and the recommended control measures contained within the assessment are implemented. A copy of the Noise Impact Assessment along with supporting evidence that the requirements have been complied with shall be provided to the Local Authority for written approval prior to the commencement of regulated entertainment.

To comply with the above the following criteria must be met;

- The report must be carried out by an acoustic consultant who shall be a member of the Association of Noise Consultants and a member of the Institute of Acoustics.
- The methodology for the noise assessment shall accord with current UK guidance and British Standards and agreed with the Local Authority in advance of the assessment commencing.
- Prior to implementation of the control measures the Local Authority shall be given the opportunity to review and comment on the Noise Impact Assessment and its recommendations.

#### **Condition 4**

The Premises Licence Holder or a nominated person shall carry out proactive noise observations outside the premises at least once an hour during the provision of regulated entertainment, and take any necessary remedial action. A written record of proactive external noise assessments and, where applicable, remedial actions taken shall be kept for a minimum of 31 days from the date of the last entry in the record and this record shall be available for inspection on demand by authorised council officers at all times the premises are open.

#### **Condition 5**

Speakers shall not be located in the entrance and exit of the premises or outside the building.

#### **Condition 6**

All windows and external doors shall be kept closed after (21:00) hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

**Condition 7**

The smoking areas, including the beer garden, must be provided with suitable ashtrays/bins, the use of which shall be monitored by the Premises Licence Holder or a nominated person. The smoking areas, including the beer garden and adjacent highways must be regularly swept to remove cigarette ends and kept in a clean and tidy manner at all times.



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

Date Dyddiad 21<sup>st</sup> July 2021  
Direct line Rhif ffôn 01639 686521  
Email Epost l.morgan7@npt.gov.uk  
Contact Cyswllt Mrs Leah Morgan  
Your ref Eich cyf  
Our ref Ein cyf LCL/14444

[REDACTED]  
74 Commercial Road  
Taibach  
Port Talbot  
SA13 1LR

Dear [REDACTED]

**RE: Licensing Act 2003 – Review of Premises Licence PREM-0316**  
**Address: The Surge, 74 Commercial Road, Taibach, Port Talbot, SA13 1LR**

Please find enclosed a copy of documents submitted today in relation to an application that Environmental Health has made to review the above premises licence.

Appendices 2a and 2b are videos and therefore are provided on the enclosed CD. The password for the CD is The Surge 1!.

Yours sincerely

**Mrs Leah Morgan**  
**Environmental Health Officer**

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#### Environment

Ceri Morris Head of Planning and Public Protection  
The Quays, Brunel Way, Baglan Energy Park, Neath SA11 2GG  
Tel 01639 686868

#### Yr Amgylchedd

Ceri Morris Pennaeth Cynllunio a Gwarchod y Cyhoedd  
Y Ceiau, Ffordd Brunel, Parc Ynni Baglan, Castell-nedd SA11 2GG  
Ffôn 01639 686868

[www.npt.gov.uk](http://www.npt.gov.uk)

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**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**I Leah Morgan**

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> The Old Surgery (The Surge), 74 Commercial Road, Taibach, Port Talbot, SA13 1LR	
<b>Post town</b> Port Talbot	<b>Post code (if known)</b> SA13 1LR

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> [REDACTED]
---

<b>Number of premises licence or club premises certificate (if known)</b> PREM-0316
--

**Part 2 - Applicant details**

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Please tick ✓ yes

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes

**Current postal  
address if  
different from  
premises  
address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address Leah Morgan, Environmental Health, Neath Port Talbot Council, The Quays, Brunel Way, SA11 2GG
Telephone number (if any) <b>01639 686767</b>
E-mail address (optional) l.morgan7@npt.gov.uk

**This application to review relates to the following licensing objective(s)**

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
  - 2) public safety
  - 3) the prevention of public nuisance
  - 4) the protection of children from harm

**Please state the ground(s) for review** (please read guidance note 2)

Failure to promote the licensing objective of the prevention of public nuisance.

**Please provide as much information as possible to support the application** (please read guidance note 3)

Please see attached Environmental Health Statement with full details of our involvement, complaint history and enforcement action so far.

**Please tick ✓ yes**

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day    Month    Year

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**If you have made representations before relating to the premises please state what they were and when you made them**

Please tick ✓


yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- I understand that if I do not comply with the above requirements my application will be rejected ✓

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature   
.....

Date **21<sup>st</sup> July 2021**  
.....

Capacity **Applicant, Responsible Authority and Environmental Health Officer**  
.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

## Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

### **Licensing Privacy Notice**

1. In providing us with your personal information you hereby acknowledge that Neath Port Talbot County Borough Council is the Data Controller for all the personal information you provide on this form (for the purpose of the General Data Protection Regulation 2016 (GDPR) and the Data Protection Act 2018 (DPA)).
2. The personal data which we collect from you via this form will be used by the Council (pursuant to it carrying out its various statutory and business functions) for the following purposes:  
Hackney Carriage (taxis) and Private Hire Licences  
Alcohol and entertainment licences, permits and notices  
Gambling licences, permits and notices  
Charitable collection licences and permits  
Boats and Boatmen licences  
Firework licences  
Hairdresser registrations  
Petroleum licences  
Scrap Metal Dealer licences  
Sex establishments and sexual entertainment venue licences  
Stage hypnotism registrations  
Street trading consents  
Tattooing, Cosmetic Piercing, Acupuncture, Electrolysis registrations
3. As a Data Controller the Council is required under GDPR to inform you which of the Article 6 GDPR "Data Processing Conditions" it is relying upon to lawfully process your personal data. In this respect please be advised that in regards to the data provided by you on this form we are relying on the following two Article 6 conditions;
  - i. "The data processing is necessary for compliance with a legal obligation to which the controller is subject". (Article 6(c) GDPR).
  - ii. "The data processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller." (Article 6(e) GDPR).
4. We may share your personal data securely with the following third parties (i.e. persons/bodies/entities outside the Council) in accordance with data sharing arrangements which we have in place with those third parties

- The Fire & Rescue Service
  - The Police
  - Disclosure & Barring Services
  - NHS local health boards
  - Immigration services
  - Foreign Embassies if you are a foreign national or have lived abroad
  - National Fraud Initiative
  - Department for Work & Pensions
  - HM Revenue & Customs
  - DVLA
  - Other local authorities
5. The personal information collected from you on this form will be held by the Council for as long as the licence, permit, consent, notification exists or up to 6 years after the it lapses.
  6. Please note that we are required to collect certain personal data under statutory requirements and in such cases a failure by you to provide that information to us may result in the Council being unable to provide you with a service and/or could render you liable to legal proceedings.
  7. We would inform you that under Article 21 GDPR you have the right at any time to object to the Authority about the fact that we are processing your personal data for the purposes of carrying out a public task or exercising our official authority.
  8. The Council will not transfer any of your personal data outside of the European Union. All processing of your personal data by us will be carried out in the United Kingdom or other European Union countries.
  9. The Council will not use your personal data for the purposes of automated decision making.
  10. Please be advised that under GDPR individuals are given the following rights in regards to their personal data:
    - i. The right of access to their personal data held by a data controller.
    - ii. The right to have inaccurate data corrected by a data controller.
    - iii. The right to have their data erased (in certain limited circumstances).
    - iv. The right to restrict the processing of their data by a data controller (in certain limited circumstances).
    - v. The right to object to their data being used for direct marketing.
    - vi. The right to data portability (i.e. electronic transfer of data to another data controller).

Further information on all the above rights may be obtained from the Information Commissioner's website: [www.ico.org.uk](http://www.ico.org.uk).

11. In the event that you have any queries regarding our use of your personal data, you wish to have access to the same or you wish to make any complaint regarding the processing of your personal data please contact the Council's Data Protection Officer at the Directorate of Finance & Corporate Services, Civic Centre, Port Talbot, SA13 1PJ.
  
12. Please be advised that in the event that you make a request or a complaint to the Council's Data Protection Officer (see 9 above) and you are dissatisfied with the Council's response you are entitled to complain directly to the Information Commissioner's Office. Details of the Commissioner's Office contact details and further information on your rights may be obtained from the Commissioner's website – [www.ico.org.uk](http://www.ico.org.uk).



### **Environmental Health Supplementary Statement**

Further to our application to review the Premises Licence for The Old Surgery, 74 Commercial Street, Taibach, SA13 1LR (Premises Licence Number: PREM-0316), also known as The Surge. Following a period of relative quiet from the premises on Sunday 29<sup>th</sup> August 2021 there was entertainment from a live band. Environmental Health received a complaint about noise along with recordings that demonstrate that the music was audible in the complainant's living room. This further supports our conclusion that the venue is not currently suitable for live music as no complaints have been received until a live band has played.

██████████ was made aware of the complaint by myself on Friday 3<sup>rd</sup> September, to which he just responded to say "Yes I am aware the complainant told me they were going to make a complaint."

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---

**From:** Calum Lewis  
**Sent:** 15 August 2023 16:16  
**To:** 'Stephen Lewis'  
**Subject:** RE: Premises Licence Application - The Surge

Good afternoon Stephen,

Since 2016 the local authority has served 3 abatement notices on The Surge in relation to nuisance arising from amplified/live music.

In 2021 the premises licence was reviewed following enforcement action being taken by this department in relation to repeated breach notice. Following the review, the following condition was added to the premises licence.

“ There shall be no regulated entertainment in the form of live or recorded music at the premises until such time that the licence holder and/or owner of the premises commissions an independent acoustic consultant to undertake a Noise Impact Assessment and the recommended control measures contained within the assessment are implemented. A copy of the Noise Impact Assessment along with supporting evidence that the requirements have been complied with shall be provided to the Local Authority for written approval prior to the commencement of regulated entertainment.”

In light of this, has a noise impact assessment been conducted for the premises? If so, could you please provide a copy of the assessment?

If a noise impact assessment has not been completed, how will you ensure that amplified/ live music will not cause a nuisance to nearby properties?

Kind regards,

**Calum Lewis**

Environmental Health Officer / Swyddog Iechyd yr Amgylchedd  
Planning & Public Protection/ Cynllunio a Diogelu'r y Cyhoedd  
Neath Port Talbot County Borough Council/ Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot



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We welcome correspondence in Welsh and will deal with Welsh and English correspondence to the same standards and timescales.

Croesewir gohebiaeth yn y Gymraeg a byddwn yn ymdrin â gohebiaeth Gymraeg a Saesneg i'r un safonau ac amserlenni.

If you would like to use Welsh when dealing with the Council please click [here](#)  
Os hoffech ddefnyddio'r Gymraeg wrth ddelio â'r Cyngor os gwelwch yn [dda cliciwch yma](#)



**DARPARU GWELL GWASANAETHAU AR-LEIN | DELIVERING BETTER SERVICES ONLINE**

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**From:** Stephen Lewis  
**Sent:** 11 August 2023 10:02  
**To:** Calum Lewis  
**Subject:** Re: Premises Licence Application - The Surge

**Caution:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe. If in doubt, contact the IT Service Desk

opening hours are from 11.00 am to 10.30 pm.

The seating is mainly inside and i have 3 picnic benches outside over looking the car park. all the plans are with cath cody in licencing at port talbot council.

---

**From:** Calum Lewis \_\_\_\_\_  
**Sent:** 10 August 2023 10:22  
**To:** 'Stephen Lewis' \_\_\_\_\_  
**Subject:** RE: Premises Licence Application - The Surge

Good morning Stephen,

Thank you for your response. For the purpose of the consultation, could you please respond to the questions in the format in which they have been laid out.

- What will the opening hours be for the outdoor seating area?
- Could you please elaborate as to the intended day to day operations at the premises?

The application makes no reference to regulated entertainment. Is there a reason that this has been excluded?

Kind regards,

**Calum Lewis**

Environmental Health Officer / Swyddog Iechyd yr Amgylchedd  
Planning & Public Protection/ Cynllunio a Diogelu'r y Cyhoedd  
Neath Port Talbot County Borough Council/ Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot

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Os hoffech ddefnyddio'r Gymraeg wrth ddelio â'r Cyngor os gwelwch yn dda cliciwch yma



DARPARU GWELL GWASANAETHAU AR-LEIN | DELIVERING BETTER SERVICES ONLINE

---

**From:** Stephen Lewis \_\_\_\_\_  
**Sent:** 10 August 2023 10:17  
**To:** Calum Lewis \_\_\_\_\_  
**Subject:** Re: Premises Licence Application - The Surge

**Caution:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe. If in doubt, contact the IT Service Desk

Hi Calum, yes there will be music played at the premises and everything will stop at 10.30

---

**From:** Calum Lewis \_\_\_\_\_  
**Sent:** 09 August 2023 14:50  
**To:** Stephen Lewis \_\_\_\_\_  
**Subject:** Premises Licence Application - The Surge

Good afternoon,

I hope you're well.

I'm contacting you as Environmental Health are a consultee for premises licensing applications.

Could you please confirm that there will be no live music or record music to be played at the premises?

I note that the external seating area is included within the licence application.  
What will the opening hours be for the outdoor seating area?

I note that the application eludes to a "café/bar":

Could you please elaborate as to the intended day to day operations at the premises?

Kind regards,

**Calum Lewis**

Environmental Health Officer / Swyddog Iechyd yr Amgylchedd  
Planning & Public Protection/ Cynllunio a Diogelu'r y Cyhoedd  
Neath Port Talbot County Borough Council/ Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot

~~We welcome~~ correspondence in Welsh and will deal with Welsh and English correspondence to the same standards and timescales.

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Os hoffech ddefnyddio'r Gymraeg wrth ddelio â'r Cyngor os gwelwch yn dda cliciwch yma \_\_\_\_\_



DARPARU GWELL GWASANAETHAU AR-LEIN | DELIVERING BETTER SERVICES ONLINE

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# Licensing Act 2003

## Premises Licence

### Neath Port Talbot County Borough Council

Premises licence number

PREM-0316

#### Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
Old Surgery 74 Commercial Road Taibach Port Talbot	
	Postcode SA13 1LR
Telephone number 01639 886085	

Where the licence is time limited the dates Start: 28/08/2005 End: N/A
---

Licensable activities authorised by the licence. Recorded Music,Supply of alcohol.
--

The times the licence authorises the carrying out of licensable activities	
<b>Supply of alcohol</b>	
Monday to Saturday	11:00 - 23:00
Sunday	12:00 - 22:30
<b>Non-Standard Timings</b>	
Good Friday	12:00 - 22:30
Christmas Day	12:00 - 15:00 & 19:00 - 22:30
<b>Recorded Music Indoors</b>	
Monday to Saturday	12:00 - 23:00
Sunday	12.00 - 22:30

<b>The opening hours of the premises</b>	
Monday to Saturday	11:00 - 23:20
Sunday	12:00 - 22:50

**Non-Standard Timings**

Good Friday	12.00 - 22.50
Christmas Day	12.00 - 15.50 & 19.00 - 22.50

Where the licence authorises supplies of alcohol whether these are on and/or off supplies  
Both on and off the premises.



Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

74 Commercial Road  
Port Talbot  
SA13 1LR

Registered number of holder, for example company number, charity number (where applicable)  
N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol  
Neath Port Talbot CBC

## Annex 1 – Mandatory conditions

### Supply of Alcohol

1. No supply of alcohol may be made under the premises licence-
  - a. at a time when there is no designated premises supervisor in respect of the premises licence, or
  - b. at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### Irresponsible Promotions

1.
  - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale of alcohol for consumption on the premises –
    - a. games or other activities which require or encourage, or are designed to require or encourage, individuals to –
      - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - ii. drink as much alcohol as possible (whether within a time limit or otherwise)
    - b. provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - c. provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - d. selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - e. dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

### Free Potable Water

1. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

## Age Verification Policy

1. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –
  - a. a holographic mark, or
  - b. an ultraviolet feature.

## Measures

1. The responsible person must ensure that-
  - a. where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
    - i. beer or cider ½ pint
    - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - iii. still wine in a glass 125 ml;
  - b. these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - c. where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

## Minimum Price of Alcohol

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
  - a. duty is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - b. permitted price is the price found by applying the formula—  $P = D + (D \times V)$where —
  - i. P is the permitted price,
  - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- c. relevant person means, in relation to premises in respect of which there is in force a premises licence —
- i. the holder of the premises licence,
  - ii. the designated premises supervisor (if any) in respect of such a licence, or
  - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d. relevant person means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e. value added tax means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (the first day) would be different from the permitted price on the next day (the second day) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## Annex 2 – Conditions consistent with the operating schedule

1. All windows and doors to be closed when amplified music is played.

### Justices On/Off Licence

#### On Licence Embedded Restrictions:

##### 1. Permitted Hours

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10 a.m. to 11 p.m.
- b) On Sundays, other than Christmas Day or New Year's Eve, noon to 10.30 p.m.
- c) On Good Friday, noon to 10.30 p.m.
- d) On Christmas Day, noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- e) On New Year's Eve, except on a Sunday, 10 a.m. to 11 p.m.
- f) On New Year's Eve on a Sunday, noon to 10.30 p.m.
- g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

## Restrictions

The above restrictions do not prohibit:

- a) During the first twenty minutes after the above hours the consumption of the alcohol on the premises;
- b) During the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
- c) During the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;
- d) Consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
- e) The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- f) The sale of alcohol to a trader or club for the purposes of the trade or club;
- g) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- h) The taking of alcohol from the premises by a person residing there; or
- i) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
- j) The supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

## 2. Credit Sales

Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied:

- a) With and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;
- b) For consumption by a person residing in the premises or his guest and paid for together with his accommodation;
- c) To a canteen or mess.

Source Section 166 Licensing Act 1964

## 3. Children in Bar (No Children's Certificate)-

No person under fourteen shall be in the bar of the licensed premises

during the permitted hours unless one of the following applies: a) He is the child of the holder of the premises licence.

b) He resides in the premises, but is not employed there.

c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of alcohol. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

Source Section 168, 171 and 201 Licensing Act 1964

Annex 3 – Conditions attached after a hearing by the licensing authority

Committee Review 4/10/2021

- a. By virtue of S177 (A) the Licensing Act 2003 the conditions of the Premises Licence relating to regulated entertainment shall be in force between 8.00 hours and 23.00 hours.
- b. There shall be no external amplified sound (i.e. in the beer garden, car park, or anywhere else outside the curtilage of the building).
- c. There shall be no regulated entertainment in the form of live or recorded music at the premises until such time that the licence holder and/or owner of the premises commissions an independent acoustic consultant to undertake a Noise Impact Assessment and the recommended control measures contained within the assessment are implemented. A copy of the Noise Impact Assessment along with supporting evidence that the requirements have been complied with shall be provided to the Local Authority for written approval prior to the commencement of regulated entertainment.
- d. To comply with the above the following criteria must be met;
  - i. The report must be carried out by an acoustic consultant who shall be a member of the Association of Noise Consultants and a member of the Institute of Acoustics.
  - ii. The methodology for the noise assessment shall accord with current UK guidance and British Standards and agreed with the Local Authority in advance of the assessment commencing.
  - iii. Prior to implementation of the control measures the Local Authority shall be given the opportunity to review and comment on the Noise Impact Assessment and its recommendations.
- e. The Premises Licence Holder or a nominated person shall carry out proactive noise observations outside the premises at least once an hour during the provision of regulated entertainment, and take any necessary remedial action. A written record of proactive external noise assessments and, where applicable, remedial actions taken shall be kept for a minimum of 31 days from the date of the last entry in the record and this record shall be available for inspection on demand by authorised council officers at all times the premises are open.
- f. Speakers shall not be located in the entrance and exit of the premises or outside the building.
- g. All windows and external doors shall be kept closed after (21:00) hours or at any time when regulated entertainment takes place, except for the immediate access and egress of persons. (To replace the existing condition relating to windows and doors being closed during amplified music).
- h. The smoking areas, including the beer garden, must be provided with suitable ashtrays/bins, the use of which shall be monitored by the Premises Licence Holder or a nominated person. The smoking areas, including the beer garden and adjacent highways must be regularly swept to remove cigarette ends and kept in a clean and tidy manner at all times.

- i. A Digital CCTV system shall be installed, or existing system maintained, at the premises which will be operational at all times when the premises is open to the public & be capable of providing pictures of evidential quality in all lighting conditions particularly facial identification. The CCTV recordings must be correctly timed and date stamped & retained for a period of 31 days and made available for viewing by the Police or an authorised Officer of the Licensing Authority on request. The system must provide coverage of the following areas:-
  - (a) The exterior perimeter of the premises;
  - (b) The entrances and exits to the premises;
  - (c) The interior & exterior public areas of the premises (i.e. beer garden and car park).
- j. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show and provide Police or authorised officers, recent data or footage with the absolute minimum of delay following a lawful request.
- k. Every Friday and Saturday night, the Sunday night of any bank holiday, Christmas Eve, Boxing Day, when entertainment is provided, a minimum of 2 SIA registered door supervisors will be on duty from 20:00 hours until closing time and when no entertainment is provided, 1 SIA registered door supervisor will be employed. At all other times, the premises licence holder will risk assess the need for door supervisors and provide door supervision between such times and in such numbers as is required by the risk assessment.
- l. Door Supervisors shall display their S.I.A licence in a reflective armband whilst on duty.
- m. A daily register of security personnel will be maintained. The register shall show the name, address and licence number of each door supervisor, and the dates and times that they operate. The register must be kept available for inspection by the Police and authorised officers of the Local Authority.
- n. An incident recording book shall be maintained at the premises showing details of the date and time of any assaults, injuries, accidents, interventions by staff or ejections, as well as details of the members of staff involved, the nature of the incident and the action/outcome. The book must be kept.
- o. Provide prominent signs throughout the premises and at all exits requesting patrons to leave in a quiet and orderly manner so as to minimise impact on local residents.

Dated 01/11/2021



On behalf of the Licensing Authority

# Licensing Act 2003

## Premises Licence

### Summary

#### Neath Port Talbot County Borough Council

Premises licence number

PREM-0316

#### Premises details

Postal address of premises, or if none, ordnance survey map reference or description  
Old Surgery  
74 Commercial Road  
Taibach  
Port Talbot

Postcode SA13 1LR

Telephone number 01639 886085

Where the licence is time limited the dates

Start: 28/08/2005 End: N/A

Licensable activities authorised by the licence. Recorded Music, Supply of alcohol

The times the licence authorises the carrying out of licensable activities

#### Supply of alcohol

Monday to Saturday 11:00 - 23:00

Sunday 12:00 - 22:30

#### Non-Standard Timings

Good Friday 12:00 - 22:30

Christmas Day 12:00 - 15:00 & 19:00 - 22:30

#### Recorded Music Indoors

Monday to Saturday 12:00 - 23:00

Sunday 12.00 - 22:30

#### The opening hours of the premises

Monday to Saturday 11:00 - 23:20

Sunday 12:00 - 22:50



**Non-Standard Timings**

Good Friday	12:00 - 22:50
Christmas Day	12:00 - 15:50 & 19:00 - 22:50

Where the licence authorises supplies of alcohol whether these are on and/or off supplies  
Both on and off the premises.

Part 2

Name, (registered) address of holder of premises licence

74 Commercial Road  
Port Talbot  
SA13 1LR

Registered number of holder, for example company number, charity number (where applicable)  
N/A

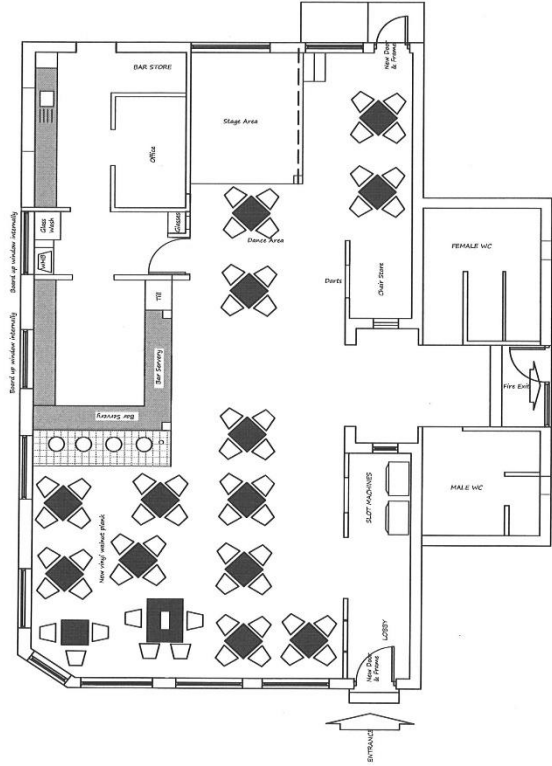
Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

State whether access to the premises by children is restricted or prohibited  
Restricted

Dated 01/11/2021



On behalf of the Licensing Authority



PROPOSED PLAN 1:100

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