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Mr N. Chapple,  
Legal Regulatory Services manager,  
Neath Port Talbot Council.  
Civic Centre,  
Port Talbot.

26<sup>th</sup> November 2021.

**Police Observations to application for the Grant of a premises licence  
under the Licensing Act 2003.**

In relation to the application for a variation of a premises licence under the Licensing Act 2003 at the below-referred licensed premises:

Name: Kitty O'Sheas

Address: 6 James Street, Pontardawe, SA8 4LR

This application has been submitted by the premises licence holders of the premises and is requesting the removal of a condition contained in Annex 3, Public Nuisance: point 6 namely;

- [The beer garden and any other outside area shall not be used after 23.30hrs.](#)

Having considered the application on behalf of South Wales Police, I wish to make representations in relation to this application on behalf of the Chief Officer of Police.

The request of the removal of this condition and the evidence to support it, as outlined in the description of the proposed variation contained in section 3 of the application, highlights the unenviable position the applicant finds themselves in as a result of the Health Act 2006 banning smoking indoors in licensed premises.



Following the banning of smoking indoors, customers who smoke, have to go outside a premises to do so. As outlined, the current situation is that smoker's use the pavement outside the front of the premises, which even the applicant says

*'...has caused us a number of problems regarding noise and having to continually open and close the front door',*

which has resulted in this application to allow the use of the rear beer garden after 23.30 (with a dedicated smoking shelter), a curfew which was imposed by the Licensing Committee following representations submitted to a previous licence variation to reduce the noise impact on their immediate neighbours in Dynevor Terrace.

The reality of the situation is that changing the location of the smoking area will not remove all noise disruption but will merely move it to another area, potentially affecting a different set of neighbours, and it is clear that this change has been brought about as a result of ongoing & frequent complaints from residents affected by noise from use of the front of the premises.

We must, therefore, be very careful that the rear beer garden has been chosen for the right reasons, rather than merely an area which has historically not attracted the same level of complaints about noise.

In addition to this consideration I feel it right that we should expect additional & appropriate, controls to be in place to mitigate the risk posed by the change, exploring options such as sound proofing, limiting numbers, changes and restrictions in how the area is used/patrolled/managed throughout the night as any smoking area agreed will be used until the premises closes at 4.30am, a time of night that customer and music noise carries far more due to there being little, or no other, background noise to compete against it.

The applicant has stated that the issues with noise leakage was exacerbated by the front door opening and closing to allow customers in and out, but the beer garden also has a door allowing access which will also be opened and closed on a regular basis and to combat this the applicant has proposed some form of door closing system to ensure the door remains open only for the time required for people to enter and exit the rear garden.

The rear beer garden in lower the road level adjacent which, I believe, will make any noise funnel upwards before dispersing outwards at street & first floor levels but I do not believe that there is anything that can be done structurally, within current legislative guidelines, to reduce this effect.

If this area is to be used I believe that the use of, and entry into & out of, the smoking area must be strictly monitored by the door staff mentioned by the applicant and that this must be their sole area of responsibility rather than as part of their general evenings responsibility for a larger area such as the recently enclosed area of the

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premises. One concern I have is that the glass panel in the UPVC door is heavily frosted, restricting the view afforded to a member of door staff standing inside so, in order to observe clearly customer behaviour, they will have also have to open and close the door on a regular basis.

Having seen the area proposed, first hand, I feel that the potential of 6 people using the smoking shelter at the same time, as proposed by the applicant, is not practical due to the size of the shelter as it would be too restrictive in terms of space, potentially encouraging people to stand outside the area, would result in ongoing noise issues and this opinion is based on nearly 40 years' experience of dealing with the night time economy, and those who visit it, and witnessing first-hand how the later into the night or early morning as customers continue drinking and socialising they have less appreciation of their special awareness, co-ordination and of the level of noise they are creating as their level of alcohol consumption rises.

What is clear is that while smokers must be able to smoke somewhere this does not mean that the potential risks of noise disturbance should be ignored. I am sure that a formula for maximum numbers of people to available space exists but in this case what the appropriate number would be for such an area I am not technically qualified to determine, and so would defer to the opinion of someone more qualified in this area, but I feel that 6 is excessive and likely to cause noise problems as outlined above. I would also have concerns about drinks being taken into the smoking area as a potential source of noise or becoming a cause of arguments through spillage etc. or worse weapons and so would request the condition outlined below relating to drinks being taken outside.

I also note that the applicant has suggested that no person under the age of 18 be permitted in the premises at any time, however I am aware that the applicants grandchildren, who are under 18, sometimes visit so is 'no under 18 permitted entry' actually what he means as it would prevent his grandchildren being in the premises?

As a result of the above concerns I would request, if the committee are minded to grant this variation, that the following conditions be imposed.

- The beer garden shall not be used after 23.30hrs with exception of access to, and use of, the designated smoking shelter.
- No drinks to be taken into any outside area after 23.30.
- A SIA door supervisor must be present and control the door allowing entry and egress to the smoking area from 23.30 until closing time.

I believe that the above proposals are proportionate to this premises and its location and support the licensing objectives.



Yours sincerely,

*Nick Bailey*

Police Licensing Officer  
(On behalf of the Chief Officer of Police)

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**Jeremy Vaughan**  
Prif Gwnstabl | Chief Constable

Heddlu De Cymru  
**South Wales Police**

