

Pencadlys Heddlu

Heol y Bont-faen
Penybont
CF31 3SU

Mewn argyfwng ffoniwch **999**
fel arall, ffoniwch **101**

Gwefan: www.heddlu-de-cymru.police.uk

Police Headquarters

Cowbridge Road
Bridgend
CF31 3SU

In an emergency always dial **999**
for non-emergencies dial **101**

Website: www.south-wales.police.uk

N Nick Bailey,
Police Licensing Officer,
Neath Police Station.

☎ External / Allanol: 01639 640207

📱 Mobile / Ffôn Symudol: 07971 623816

nick.bailey2@south-wales.police.uk

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

16th August 2021.

**Police Observations to application for the Variation 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: The Corner House

Address: 44 The Parade, Neath, SA11 1RA

I wish to submit the below representations regarding the above application. This Application is to extend the permitted hours for providing regulated entertainment in the beer garden from the current terminal hour of 23:00hrs allowed under de-regulation, to a new terminal hour of 01:00hrs.

In the application the applicant has stated that they 'like to extend the music in our beer garden from 00:00hrs to 01:00hrs giving us an extra hour' which is strange given that the current de-regulation only allows for music up until 23:00 hrs after which it needs to be authorised by the premises licence. There is no such authorisation in place for this premises and so the use of a DJ outside until 00:00hrs would constitute unauthorised licensable activity.

I draw your attention to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 as amended in 2018. Paragraph 1.4 of the Guidance stated the promotion of the statutory objectives is a paramount consideration at all times.

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Section 17 of the Crime and Disorder Act 1998 requires both Police and Local Authorities in the exercising of their functions to have due regard to the likely effect upon crime and disorder in its area and to do all they can to reasonably prevent crime and disorder.

Unfortunately prior to the submission of this application, South Wales Police were not consulted, as recommended in section 8.46 of the 182 guidance, to identify the local issues and discuss the relevant concerns which is especially surprising, given that the applicant wants to extend the hours for regulated entertainment outside with a DJ playing until 1am in the morning with 2 hotels directly opposite the premises and flats nearby.

Had any such consultation taken place I would have been able to advise the applicant that any request to extend the provision of music outdoors beyond 23:00hrs would likely to meet with opposition.

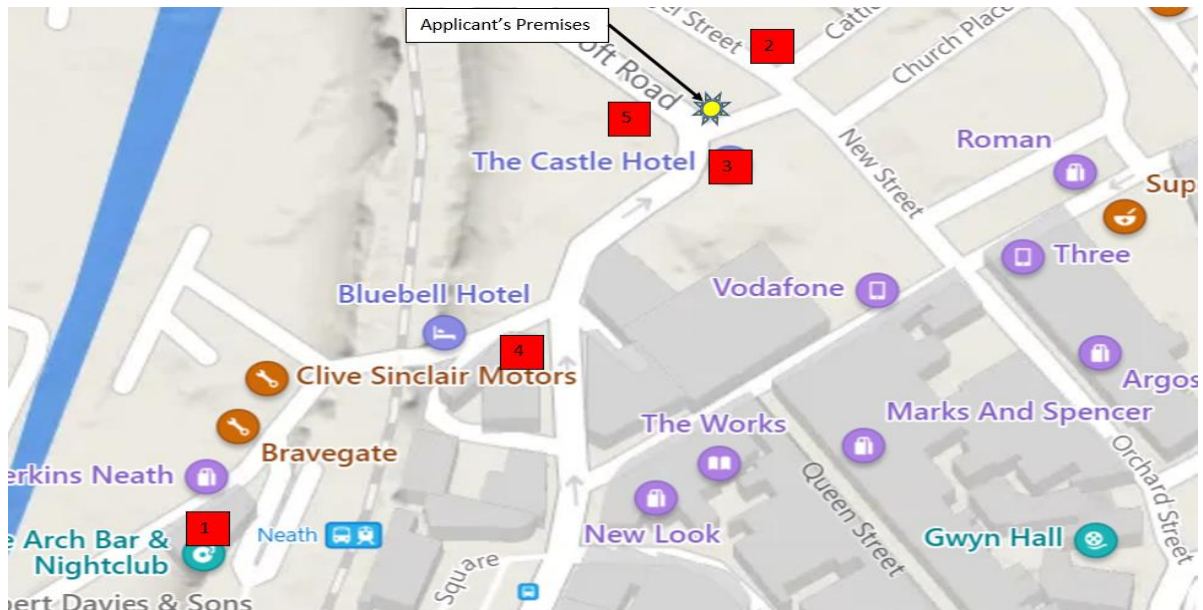
I can understand, from a business perspective, that this decision is driven by a wish to provide a service to customers that would, as stated in the application rationale, remove the need for them to leave this premises and go to another to spend money elsewhere to continue their evening.

I believe this rationale is flawed as the current licence allows for live and recorded music indoors until 2am Sunday to Friday and until 3am on Saturdays so I do not see how the addition of music outdoors would be any encouragement to customers to stay as music is already available until way beyond the hours requested in the application.

The major concern is that such an extension of hours can only lead to an increase in noise into the early hours of the morning for both the premises in the immediate vicinity, which includes residential properties above shops and residents in hotels directly opposite this premises.

Whilst each application must be judged individually it is worth noting that no other licensed premises in Neath has the facility to provide music outside after 11pm as permitted by government de-regulation, in fact as outlined by the image below there are 5 other premises, all within 160m, that actually have conditions limiting the opening of doors & windows after 11pm to prevent noise nuisance, let alone allowing any of them to provide music outside after that time giving, I believe, a clear message of what is considered a 'reasonable' terminal hour for outdoor music.





Looking at the application itself there are some areas that I find confusing, namely the applicant is applying for a change to allow 'live music' to be played outside until 1am but is not applying for any change to either the hours or location of 'recorded music' being played.

In the section 8 of the application which covers live music the explanation of the type of activity to be authorised says that there will be a DJ in the garden playing controlled amplified music.

There is debate about what type of entertainment a DJ is providing but Poppleston & Allen, who are nationally acknowledged as being specialist in licensing law and its interpretation, state in an article published in May 2015 that a DJ is not generally considered to be providing live music so I do not understand how exactly, with an increase in live music, the applicant is going to be able to utilise the extension they are asking for with a DJ.

I would therefore request that the applicant provides some further explanation as outlined;

- Exactly what entertainment is the applicant intending to provide and why do they feel this sits within the category of live music.

Moving on from whether they have applied for the correct extension to permit them to operate as they, or where they wish to have music played and until what time, there is the issue of how they intend to prevent any such music causing a noise nuisance to local residents becomes the central issues.

The Live Music Act 2012 deregulated music played between 8am – 11pm, meaning that the premises licence conditions such as “windows and doors to closed when regulated entertainment is provided” no longer applied between those hours. I believe, however, that the key time to consider is the terminal hour selected of 11pm, after which the legislation allows for conditions on a premises licence to again apply to regulated entertainment and the probable reason for that terminal hour.

I believe that 11pm was chosen as, after that time due to the drop in other ambient noise, any loud noise would not be diluted, or negated by other ambient noise such as traffic noise or noise from shops or pedestrians.

I do not hold professional qualifications in the area of noise pollution but even as a lay observer, I can see that playing music in the open air until 1am with the noise is not contained in any way will mean that it is likely, due to reduced ambient noise at that time of the morning, to cause noise nuisance bearing in mind that for the vast majority of people staying in hotels adjacent to this premises, this is a time when they will be sleeping.

The lack of any sound reducing materials can only mean that any noise will not be contained and yet the only relevant measure that the applicant mentions are designed to prevent noise from customers, by the use of signage requesting them to leave quietly, that windows and doors are closed at midnight, both of which are irrelevant when considering preventing noise leakage from music outside and that the sound level will be lowered after midnight.

It beggars belief that the applicant does not try to address further the possibility that a DJ playing music in the open air until 1am is likely to impact the local environment and I can only surmise that either they are not bothered by any noise caused, or if music is played outside there is no possible way to restrict noise leakage other than to remove the noise source, which is the opposite of what is being applied for.

Knowing the applicant as I do as a responsible operator, I can only assume that it is the second reason, and the fact that there is no mention of any method of preventing noise leakage is telling as, I believe, it also shows that the applicant is aware that there is nothing that can be done to limit noise leakage.

If this is the case it begs the question if nothing can be done to prevent significant noise leakage how can this application be granted.

I am not aware of any noise complaints relating to this premises over the past 12 months between 11pm and 1am but this may well be because, as the applicant states, they have stopped the music in line with the authorisation given under their current licence.

Any scheme/attraction that draws additional footfall to a premises increases the risk of alcohol related incidents as customers interact and are more likely at the end of the night than at the beginning due to the levels of alcohol consumed by this point.

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I would request that this application is refused as I believe that to allow music outside in the beer garden until 1am will undermine the licensing objectives of preventing crime & disorder and of preventing public nuisance.

I have not suggested any additional measures that the applicant could put in place to prevent noise as the Environmental Protection Act 1990 section 79 (1) (g) deals with noise emitted from premises which is deemed to be a noise nuisance and, as experts in this field, the Environmental Health Dept. would be better qualified than I to understand whether any measures are available that would prevent music from a DJ becoming a noise nuisance.

Respectfully submitted.

Yours sincerely,

Nick Bailey

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

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